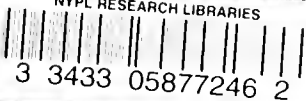


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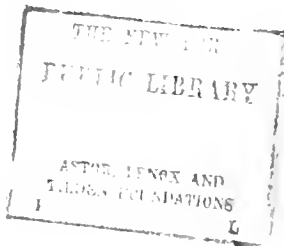
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New York (state)

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PROCEEDINGS BEFORE JOINT LEGISLATIVE COMMITTEE
TO INVESTIGATE THE AFFAIRS OF THE CITY OF NEW YORK.

BEC - 1921
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New York (Stat).
New York

Marshall & Munson,
Official Stenographers,
150 Nassau St., New York.
PHONE: Beekman 2764.

(Index at end of day's proceedings).

PROCEEDINGS

of the

NEW YORK STATE JOINT LEGISLATIVE COMMITTEE
TO INVESTIGATE THE AFFAIRS OF THE CITY OF NEW YORK.

New York City, New York,
County Court House,
December 6th, 1921,
3:30 o'clock p.m.

PRESENT:

SENATOR SCHUYLER M. MEYER, Chairman.

ASSEMBLYMAN SIMON L. ADLER, Vice-Chairman.

SENATOR THEODORE DOUGLAS ROBINSON,

SENATOR MAXWELL S. HARRIS,

SENATOR BERNARD DOWNING,

ASSEMBLYMAN WALTER W. WESTALL,

ASSEMBLYMAN SOL. ULLMAN,

ASSEMBLYMAN MAURICE BLOCH,

ASSEMBLYMAN PETER A. McARDLE,

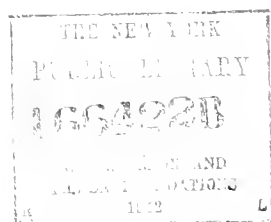
HON. ELON R. BROWN, Counsel,

and Associates.

Marshall & Munson,
Official Stenographers,
150 Nassau Street,
New York.
BEEKMAN: 3764

[1921]

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R O B E R T O. S C H O L Z, was called as a witness and being first duly sworn by Chairman Meyer on this 6th day of December, 1921, testifies as follows:

EXAMINATION BY MR. BROWN:

Q Mr. Scholz, you reside in the City? A Brooklyn, yes, sir.

Q And are you Vice President of the Kerr Chartaring Company, Incorporated? A subsidiary of the Kerr Steamship Company? A I am.

Q Do you know about the leasing of pier 36, North River, for the Kerr Steamship Company? A Pier 36, do you say?

Q 36 or 33? A 33rd Street pier, Brooklyn, perhaps.

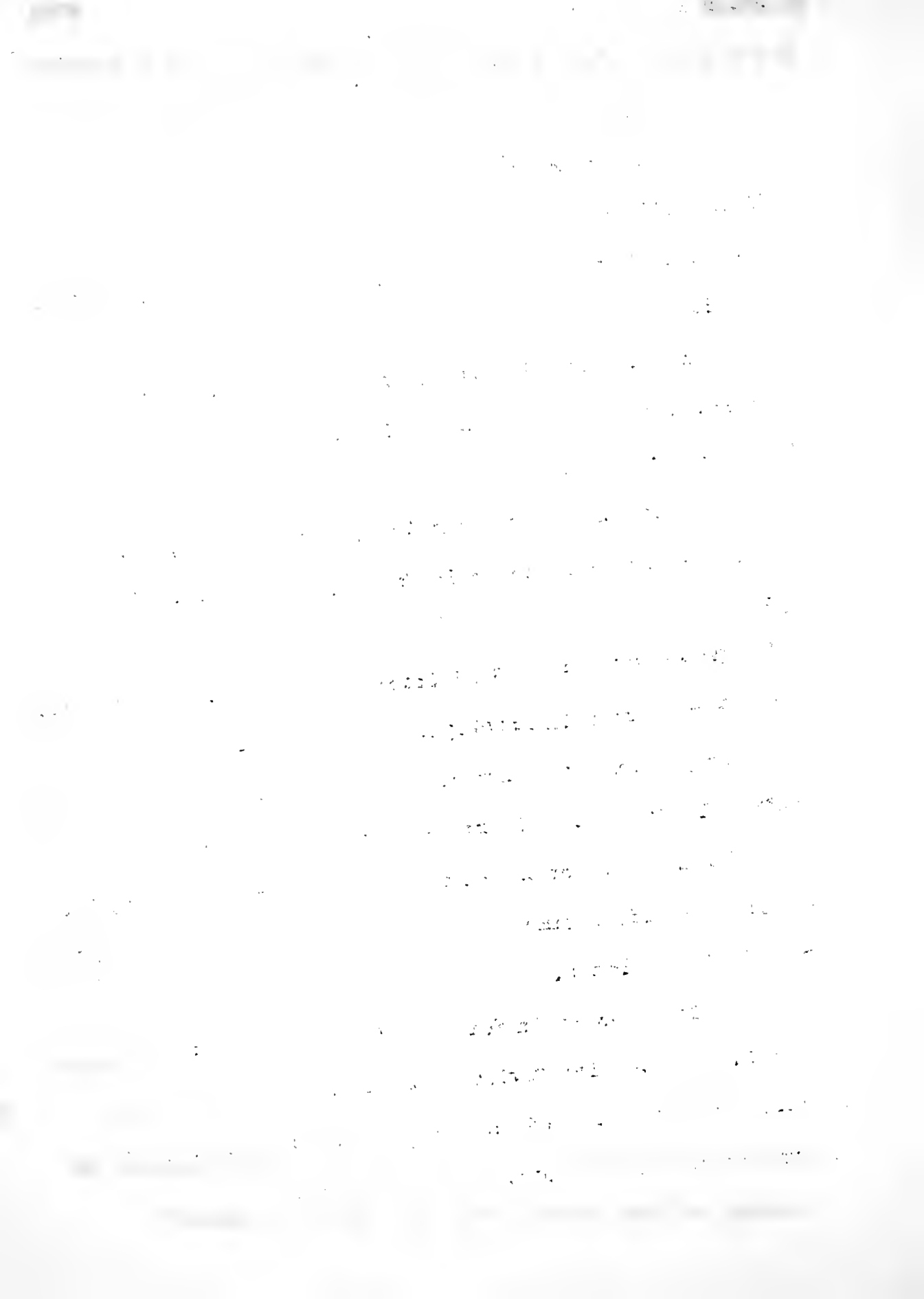
Q 33rd Street in Brooklyn? A Yes, sir.

Q Do you remember when that lease was made? A There wasn't a lease made. There was a permit granted.

Q Permit from month to month? A Yes. A permit, not for a specified time, but revocable at the pleasure of the Dock Commissioner.

Q How long was it in force? A From May to October.

Q Did you receive various sums of money from Mr. Stewart, the treasurer of the Kerr Steamship Company, on account of this lease, over and above the rental?



A Yes, sir.

Q Can you tell what the amounts were? A Not from memory, no, sir. I can, approximately.

Q Well, I have a list here, starting with May 5th and running to October 31st, varying from \$1000 to \$3825, and aggregating \$34,950? A I should say that was correct.

Q These vouchers were drawn to the order of Mr. Stewart, who is the treasurer of the company, the Kerr Steamship Company, were they? A Yes, sir.

Q And were they turned over to you? A There were certain amounts turned over to me of the sums that you mentioned in weekly periods.

Q Or approximately weekly periods? A Or approximately weekly periods, by Mr. Stewart, the treasure of the Kerr Steamship Company.

Q Were the checks turned over to you? A No, sir.

Q Cash? A Cash.

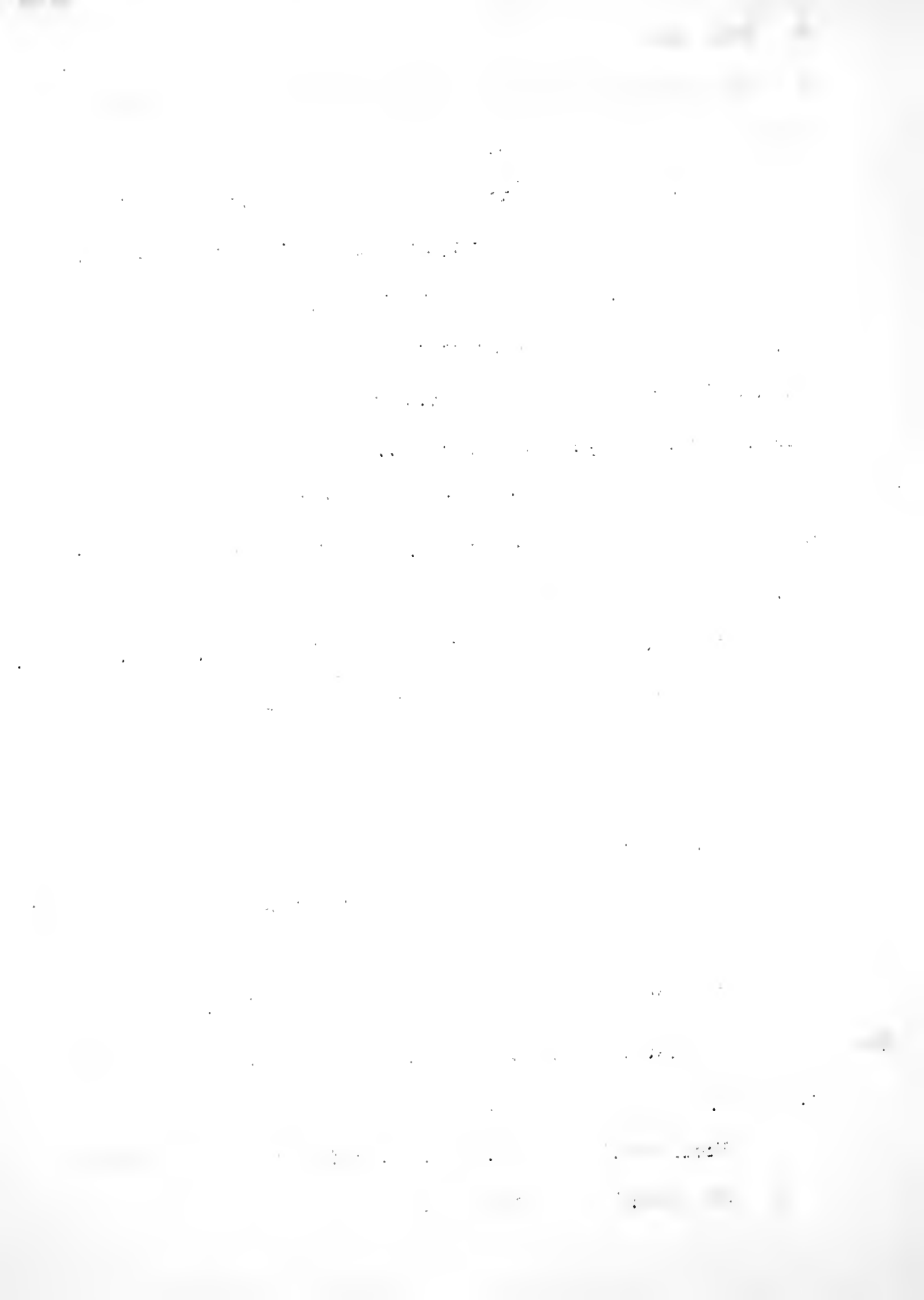
Q To the amount of the checks so issued? A I didn't see the checks at all, sir.

Q Did you receive those amounts? A Yes, sir.

Sp- Q Did you have any instructions as to what to do with the money? A Yes, sir.

Q From whom? A From the President of the company.

Q Mr. Kerr? A Yes, sir.



Q And what did he tell you to do with the money?

A Told me to carry out the arrangement that I had arranged for, which I brought to his attention.

Q That is, you had made an arrangement about it?

And what arrangement had you made? A I made the arrangement with a Mr. Kelly.

Q Do you remember his full name? A Edward Kelly.

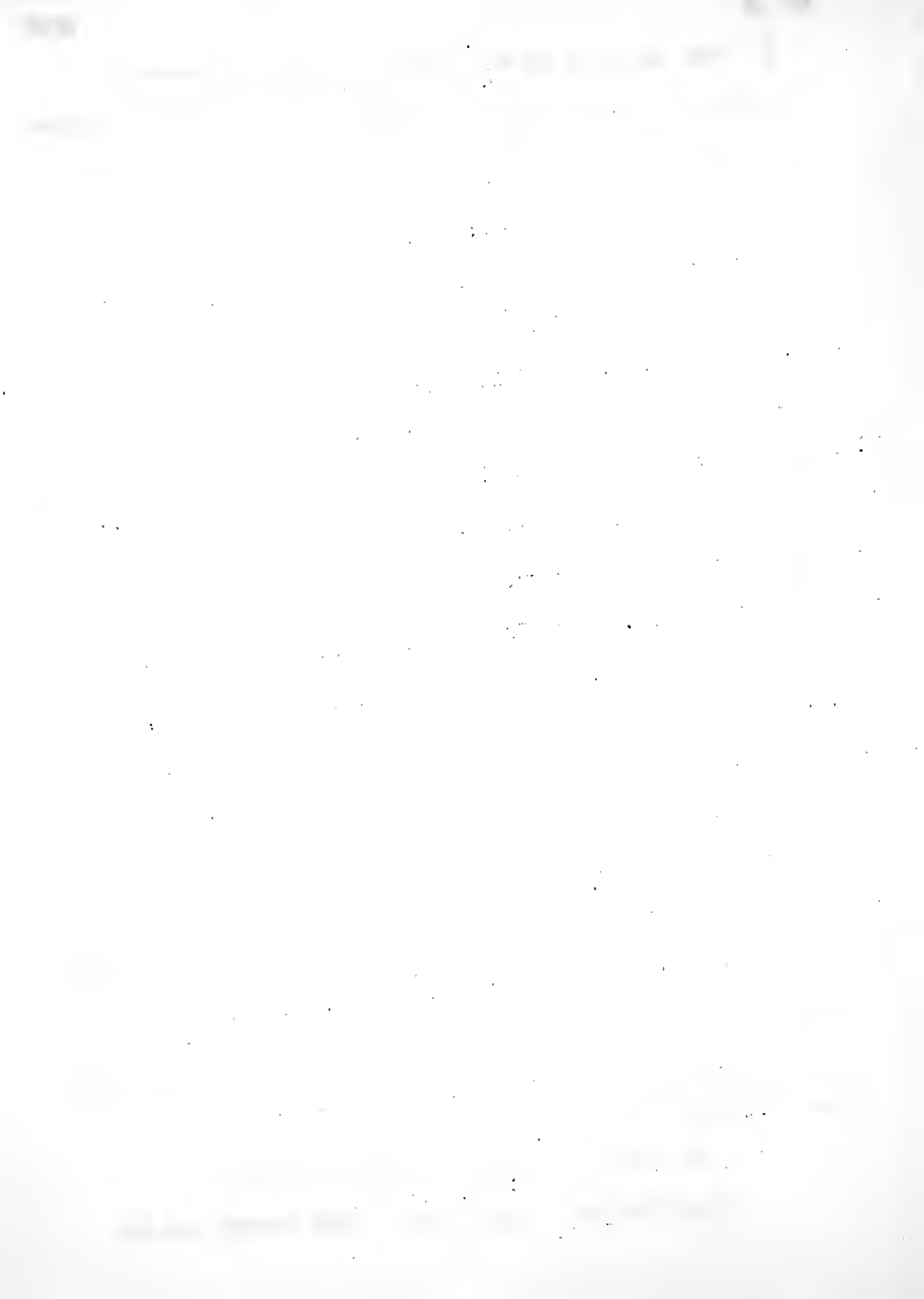
Q And what was that arrangement? A In the early part of 1919 Mr. Kerr, the President of the Kerr Steamship Company, asked me to come to his office, and stated that he had made application to the Dock Department for the lease of 33rd street pier, Brooklyn, or a part thereof, and wanted to know if I could help him, as he was very much in need of a pier, as pier room at that time was very scarce and in great demand. I told him I did not know, but I would try and see if I could be of any help. That same day, or the date following, it occurred to me that I had a friend that would or could possibly be of some help.

Q You said so? A Yes, sir; this was my own mental reservation.

Q I didn't understand whether you had a friend or he had a friend? A I said I did.

THE CHAIRMAN: Speak a little louder.

THE WITNESS: Yes, sir. This friend was Mr.



Edward Kelly, and I telephoned him and asked him to come to my office. He did. I told him exactly the same conversation as the President told me, and asked him if he could help us to get the lease of 33rd street pier, Brooklyn, or some similar pier in that neighborhood, or elsewhere, but that we preferred 33rd Street pier, Brooklyn, as we had had it once before, and it suited the requirements of the Kerr Steamship Company very nicely. Mr. Kelly told me he did not know whether he could help me or not, but he would see. Either the following day or the date following he came to me and said he did not have anything to report, but he thought perhaps in a day or two he might have. He called again, and said that things looked favorable for us to get the 33rd street pier. Thereupon --

Q (interrupting) Did he tell you whom he had seen?

A No, sir.

Q Go on? A I think it was the following meeting, which was the next day, when he came again, and he expressed himself rather confidently that we would get a favorable response to our request. That is how it was arranged.

Q And did you have any business relations with Kelly?

A I had known Mr. Kelly for 25 or 28 years.

Q Did you have any business relations with him?

A Not of this character, but of other character during my

acquaintance with him.

Q What is his business? A He is connected in the steamship business.

Q Do you know his position; what company he is with?

A He is with the Clyde Steamship Company, and has been with them a great many years, and through that connection I formed my acquaintance with him years ago.

Q Well, now, did he tell you you would have to pay anything besides the rental? A He said there would have to be some compensation for his services.

Q Did he say for whose or what service? A No, sir.

Q What basis of service did you agree to pay him?

A Mr. Kelly suggested that the compensation - fair compensation would be the difference between the tax rate of the Dock Department, or city property, and the market value of piers.

Q And did you talk over with him what the fixed charge of the Dock Department would be, and what the fair market value was? A Yes, sir, we did.

Q What understanding did you come to in that regard?

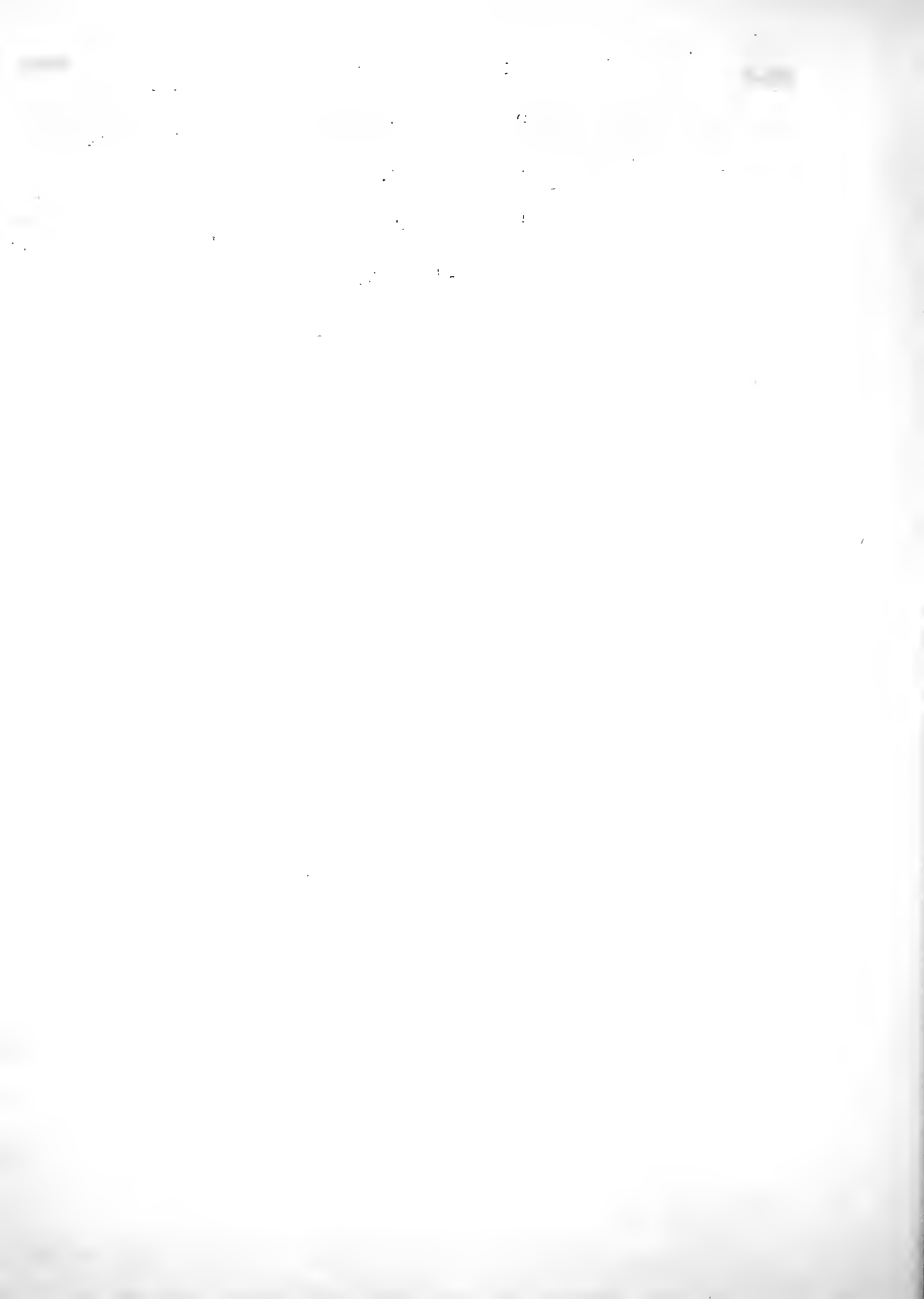
A That the market value depended entirely upon the size of the vessel and the amount of work to be done, and the market value of berths at that time --

Q (interrupting) And, of course, I might add there



that the market value depended upon the size of the vessel it would accommodate also? A Correct, sir.

Q One that would accommodate a large vessel would have a better market value than one that would accommodate a small one, but you might put a small one in where a large one would go? A It frequently is done.



A (Continuing) The market value at the time ranged entirely upon the demand and the size of the vessel and it varied anywhere from \$125 a day to \$200, \$225, \$250 a day.

Q For that pier? A For each berth.

Q And how many berths were there? A There were three.

Q Well, when you come to arrive at what the market value was, what did you agree upon as the market value? A We didn't agree upon any figure, excepting as each ship appeared.

Q Oh, then your agreement was that the payment should be what the pier earned at the rates you have mentioned? A Yes, sir.

Q And the rental value? A Yes, sir.

Q And on account of that should be kept? A Nothing was said of any account being kept.

Q Well, but that was the idea? A On, naturally so.

Q And that the difference should be paid to Kelly?

A Correct.

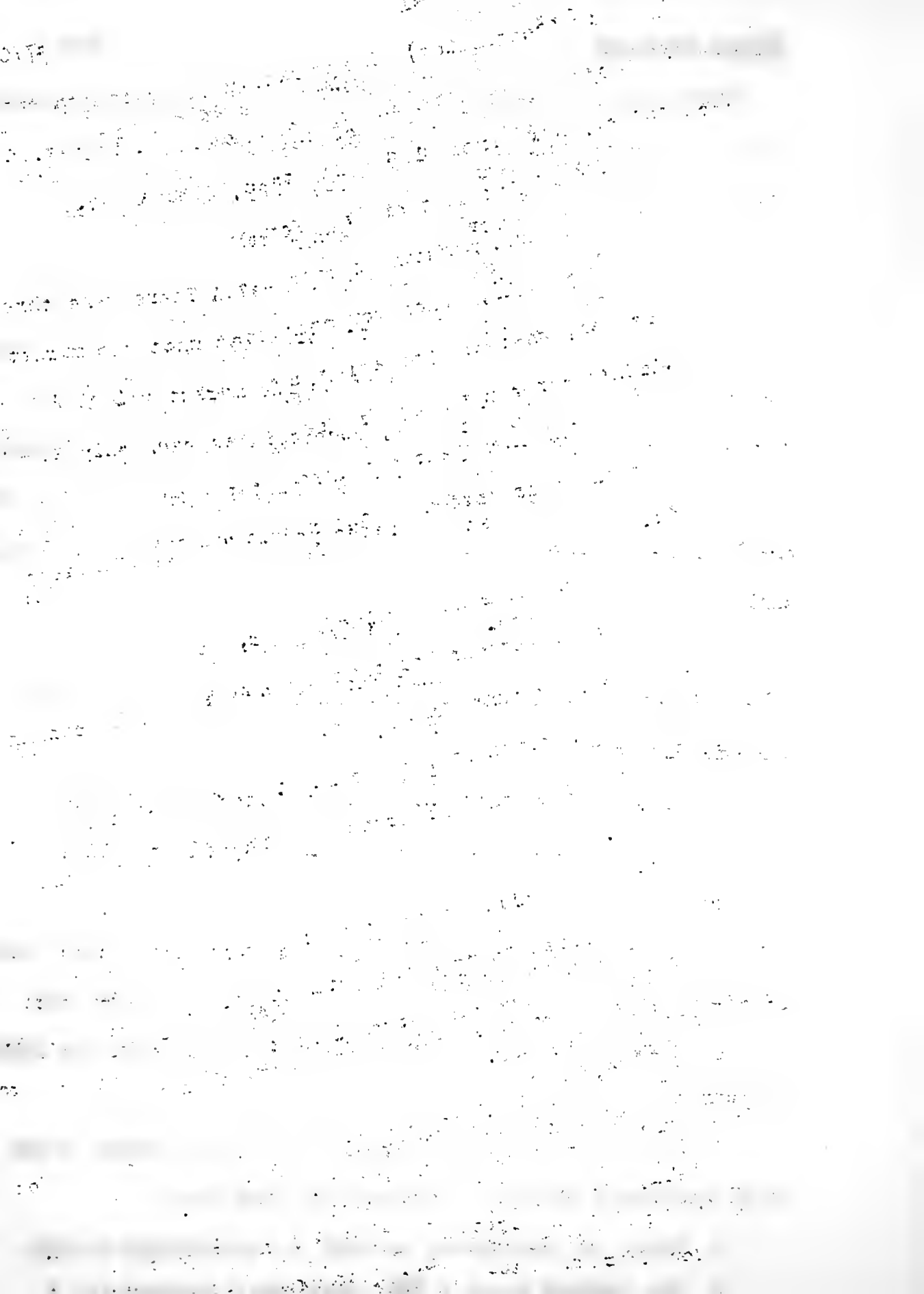
Q And that difference is represented by these sums which is being testified to as being paid to Kelly? A Yes, sir.

Q Did you have any personal negotiations with the Dock Department? A No, sir.

Q Did anybody in your Company to your knowledge? A Not to my knowledge although I believe Mr. Kerr did.

Q Well, you understood he did? A I understood he did.

Q You learned that? A Well, just how I learned it, I



don't know. It was in my mind that he did.

Q Now, Mr. Kerr is not in this country now? A No, sir.

Q And his business keeps him in there a considerable part of the time? A Quite so.

Q Did Kelly tell you anything about what he was to do with the money? A No, sir.

Q Or that he was to pay it to anybody else? A No, sir.

Q Or that he was to pay anything to anybody else? A No mention made of it at all, sir.

Q Nothing at all? A Nothing at all.

Q Do you remember what rental you paid under the recoverable permit in the neighborhood of \$50,000? A Something like that, yes, sir.

Q Did you ever have a talk with Mr. Kerr about it? A Only made my report to him as to the arrangement made, which he approved.

Q That is, a written report? A No, sir, verbal.

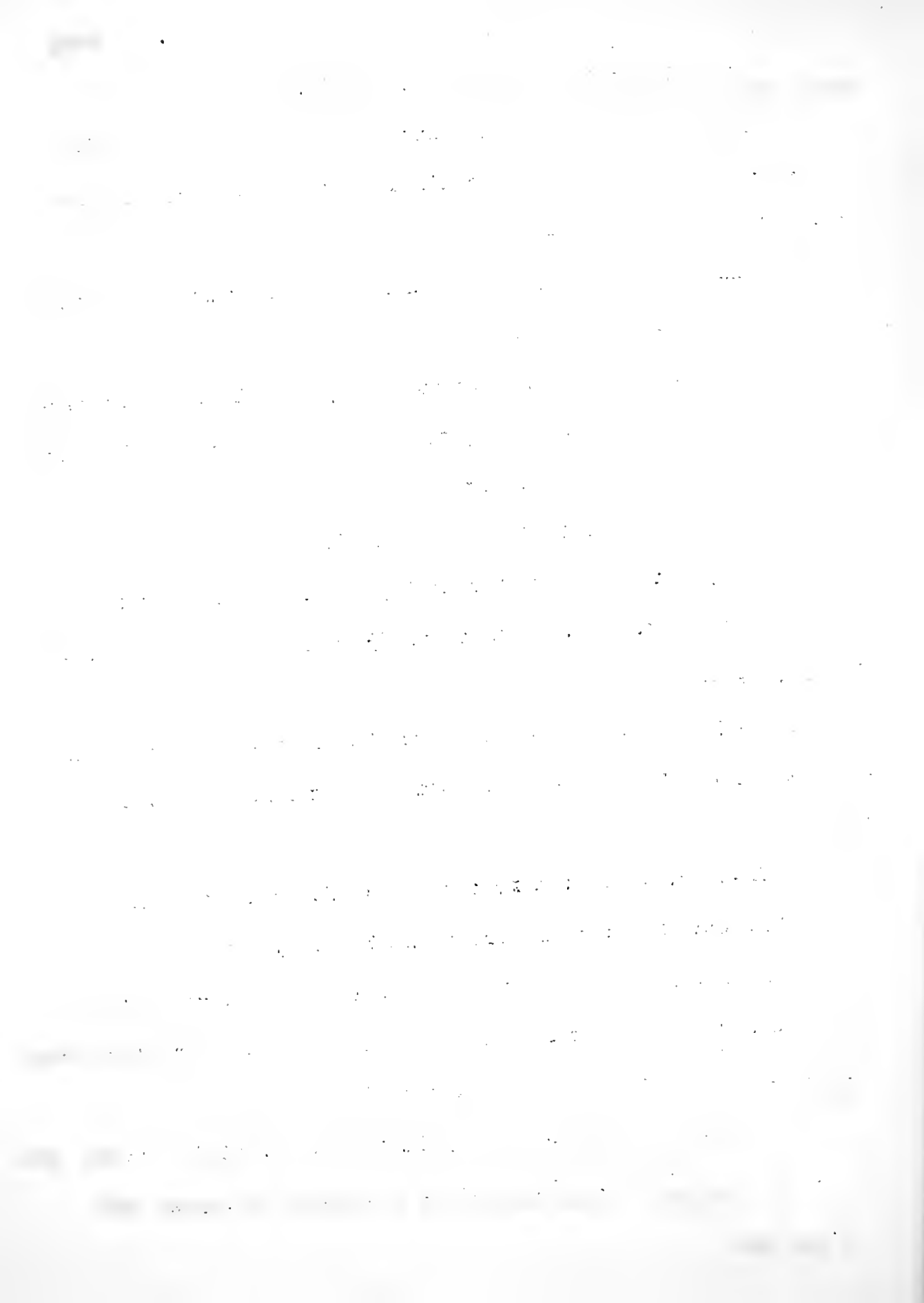
Q You made a verbal report to him? A Yes, sir.

Q That the rental was to be paid under the revocable permit and in addition this difference between the market value and the rental to the Dock Department? A Correct.

Q And that money was to be paid to Mr. Kelly? A Yes, sir.

Q You didn't ask Kelly what he wanted the money for?

A No, sir.



Q You didn't call on him because he was a broker?

A No, sir.

Q You called on him because he was a friend? A Yes, sir.

Q And because he was engaged in a similar business and had been for many years? A Correct, sir, and was very familiar --

Q You had exchanged favors occasionally, you and he, hadn't you? I mean you had favored one another whenever you had requested one another. A We always had the benefit of one another's opinion.

Q You had business relations always? and from time to time during the course of your experience you had done business one for the other? A Well, I wouldn't say business; it was the exchange of opinions on certain subjects.

Q Did you ever pay him any money for any other purpose?

A No, sir.

Q Did he ever pay you any money for any other purpose?

A No, sir.

Q You knew him socially? A Yes, sir.

Q You met him socially? A Most of my meetings were with him socially, I should say.

Q Belong to the same club? A No, sir.

Q Now, did it occur to you that it was necessary for you to get the lease of this pier to pay this additional thirty odd thousand dollars? Did you think that was necessary?

A The needs of it demanded it, sir.

Q What say? A The needs of it justified it, I might say.

Q Do you mean to say that you were justified in paying the larger sum rather than go without it? A Yes, sir.

Q But you didn't go to the dock commissioner and offer him this sum directly? A No, I didn't.

Q You knew Mr. Kerr had talked with him? A I didn't know that he had.

Q You understand he had? A I understood he did.

Q And hadn't got the lease? A Correct, sir.

Q But you didn't go near him? A No, sir.

Q Well, what was in your mind about why you should pay this additional money? This was a lease by the city of a pier that it owned, where the money went into the city treasury; how did it come to get in your mind that you should pay this large sum of money to somebody else? A Well, I felt Mr. Kelly's experience would lead me -- would prove to be helpful in getting the pier, and as such he was entitled to compensation for his services.

Annual Report of the

Board of Directors

of the

City of New York

for the year ending December 31, 1911

Presented to the

Common Council

1912

by the

Mayor of the City of New York

and the

Board of Directors

of the

City of New York

for the year ending December 31, 1911

Presented to the

Common Council

of the

City of New York

for the year ending December 31, 1911

Presented to the

Common Council

of the

City of New York

Q I see, so you thought you were compensating Kelly?

A yes, sir.

Q Not somebody else, but Kelly? A Kelly.

CHAIRMAN MEYER: Did Mr. Kelly ask you to give him this money in cash?

THE WITNESS: Yes, sir.

CHAIRMAN MEYER: Did he give you any reason for it?

THE WITNESS: No, sir.

CHAIRMAN MEYER: Did you ask him why he wanted it in cash?

THE WITNESS: No, sir.

CHAIRMAN MEYER: Are you accustomed to giving people money in cash for services rendered without any bills?

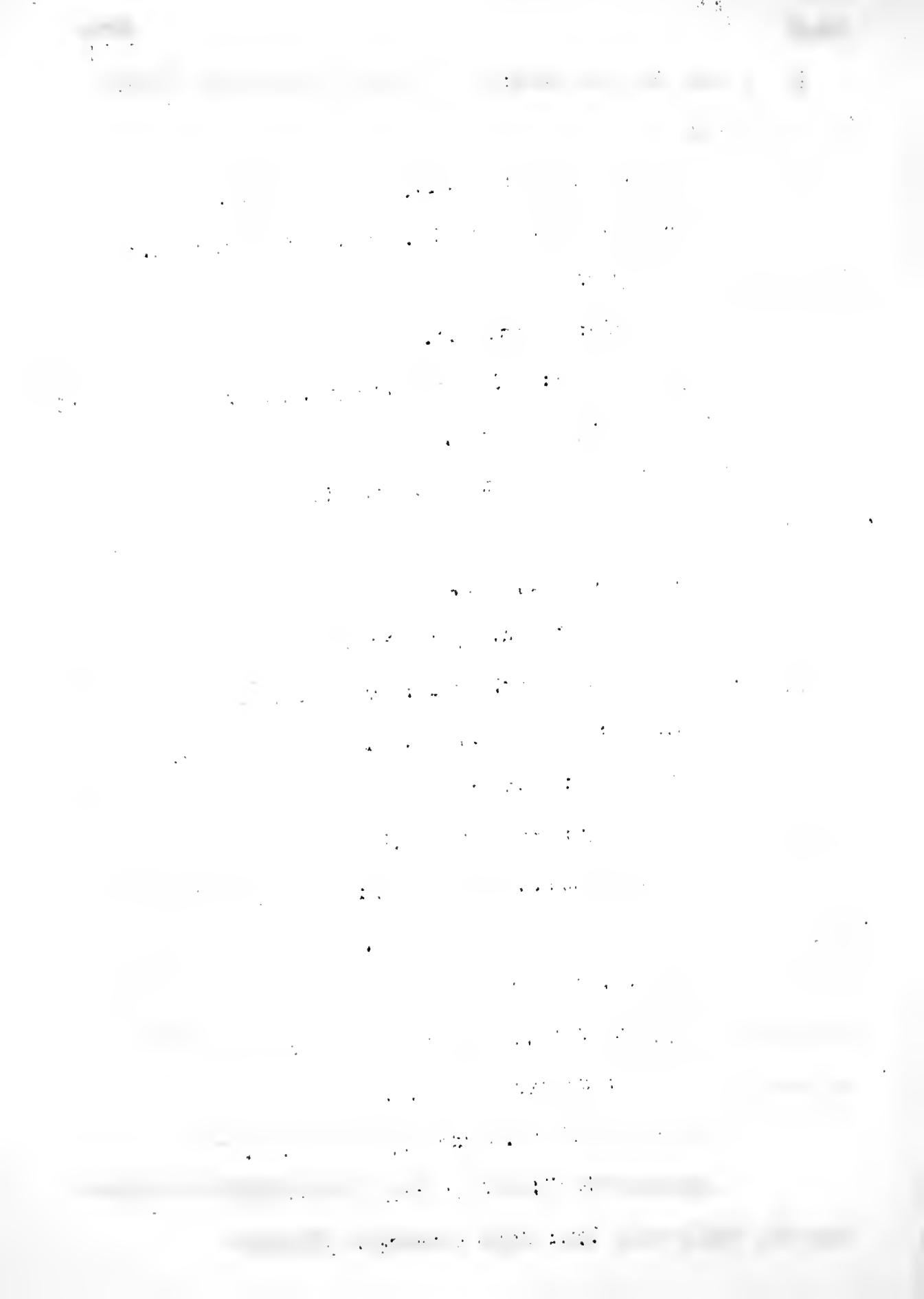
THE WITNESS: No, sir; it is not customary.

CHAIRMAN MEYER: Does any member of the Committee desire to ask the witness any question?

~~ASSEMBLYMAN~~ SENATOR ROBINSON: In thinking of Mr. Kelly at first, it was not with the idea of - that you had to pay him, was it, or was the idea first because of his long experience in that line of work that he might be of assistance to you in getting the pier?

THE WITNESS: That is exactly the point.

ASSEMBLYMAN ULLMAN: What ~~compensation~~ position has Mr. Kelly with the Clyde Steamship Company?



THE WITNESS: Assistant manager.

CHAIRMAN MEYER: Was this money that you gave Mr. Kelly open, in an envelope, or how did you give it?

THE WITNESS: It was in an envelope, sealed envelope and sometimes the envelope was not sealed.

CHAIRMAN MEYER: Usually it was sealed?

THE WITNESS: Mostly, yes.

SENATOR ROBINSON: Did Mr. Kelly suggest that you pay him in money for what services he rendered?

THE WITNESS: Mr. Kelly suggested that there should be a compensation for his services.

* * * * *

E D W A R D A. K E L L Y was thereupon called as a witness and being duly sworn by Chairman Meyer:

on this 6th day of December, testifies as follows:

EXAMINATION BY MR. BROWN:

Q Mr. Kelly, where do you reside? A 136 West 64th Street, New York.

Q And what is your business? A I am assistant manager of the Clyde Steamship Company and the Mallory Steamship Company.

Q You heard Mr. Scholz testify? A I did.

Q Did Mr. Scholz send for you, as he testified?

A He did.

Q What did he say to you? A He asked me if I could help him in getting a pier in New York, preferably 33rd Street Brooklyn,

Q For whom? A For his company.

Q For the Kerr Steamship Company? A For the Kerr Steamship Company,

Q And what did you tell him? A I told him that I would see what I could do.

Q Well, what did you do? A A day or two following I saw Mr. H.B. James. I told him that the Kerr Steamship Company were looking for a ~~water~~ pier in New York, and that they preferred the pier at the foot of 33rd street, Brooklyn, if they could get it. He then told me that he would let me know what if anything, he could do. A few days later he telephoned

me and I met him, and he told me that he thought he might be able to get a permit lease of that pier, subject to the usual terms of cancellation, and that he should be paid the market rates of wharfage, which were, as I recall it now, about from, \$125 to \$200 per day, according to size of ship, the legal rate of wharfage due the city to be deducted from that rate, and the balance paid to him in cash, in weekly payments.

Q It was specified in cash? A It was specified in cash

Q Who was H.B. James? A Mr. H.B. James was a man more or

less prominent along the water front.

Q What say, more or less prominent? A More or less prominent along the water front, had been engaged in maritime business for a number of years.

Q What concern was he connected with? A He was connected with Interstate Lighterage Company; the Victory Steamship Company, and some other companies.

Q Do you know in what capacity? A Why, he was president, I believe, of the Interstate Lighterage Company and I think also president of the Victory Steamship Company.

Q Is that a company of some size, a large company?

A It was, yes.

Q Doing a large business? A Doing a large business.

Q He was a wealthy man? A Beg pardon?

Q He was a wealthy man? A He was presumed to be a wealthy man, yes.

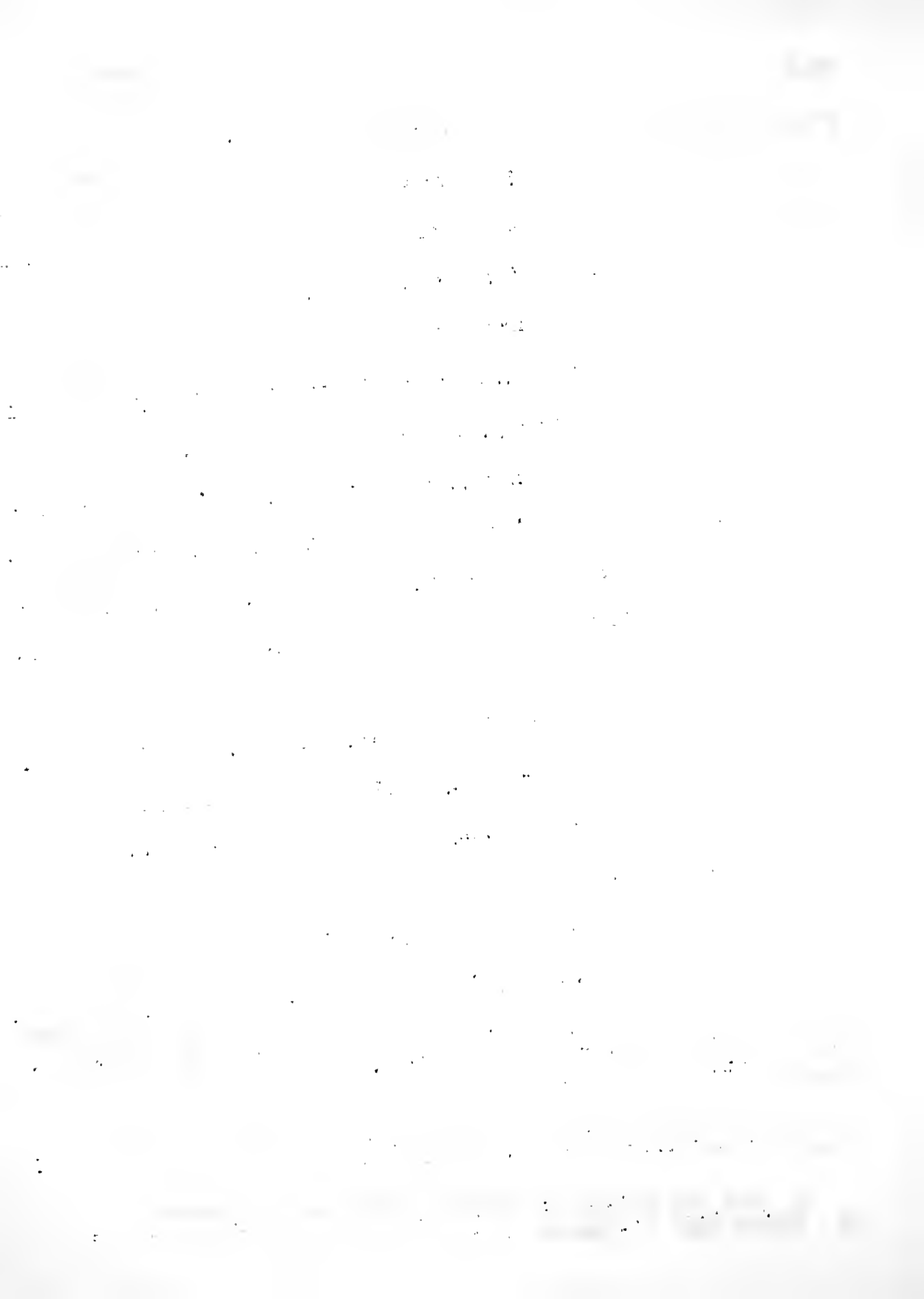
Q You understood he was? A Yes.

Q And this \$34,000 that was paid to you by Mr. Scholz, you paid to Mr. James as it was paid to you? A The money that I received from Mr. Scholz I transmitted to Mr. James, handed it to him.

Q You didn't keep an account of the amount? A I didn't know what was in the envelope.

Q But you handed it in cash every time to James?

A Every time to James.



Pstk5 - 1

Q Where did you pay it? A I usually met him at lunch, sometimes at the Railroad Club, and sometimes at the restaurant down around Rector Street. Sometimes in the evening up town.

Q Did he tell you what he wanted of the money? A I don't grasp that question.

Q Did he tell you what he wanted of the money? A What he wanted of the money?

Q Yes. A No, sir.

Q Did he tell you he wanted it for his services? A He didn't say.

Q Nothing of the kind? A Nothing of the kind.

Q He did not specify whether it was for his services or not? A He did not.

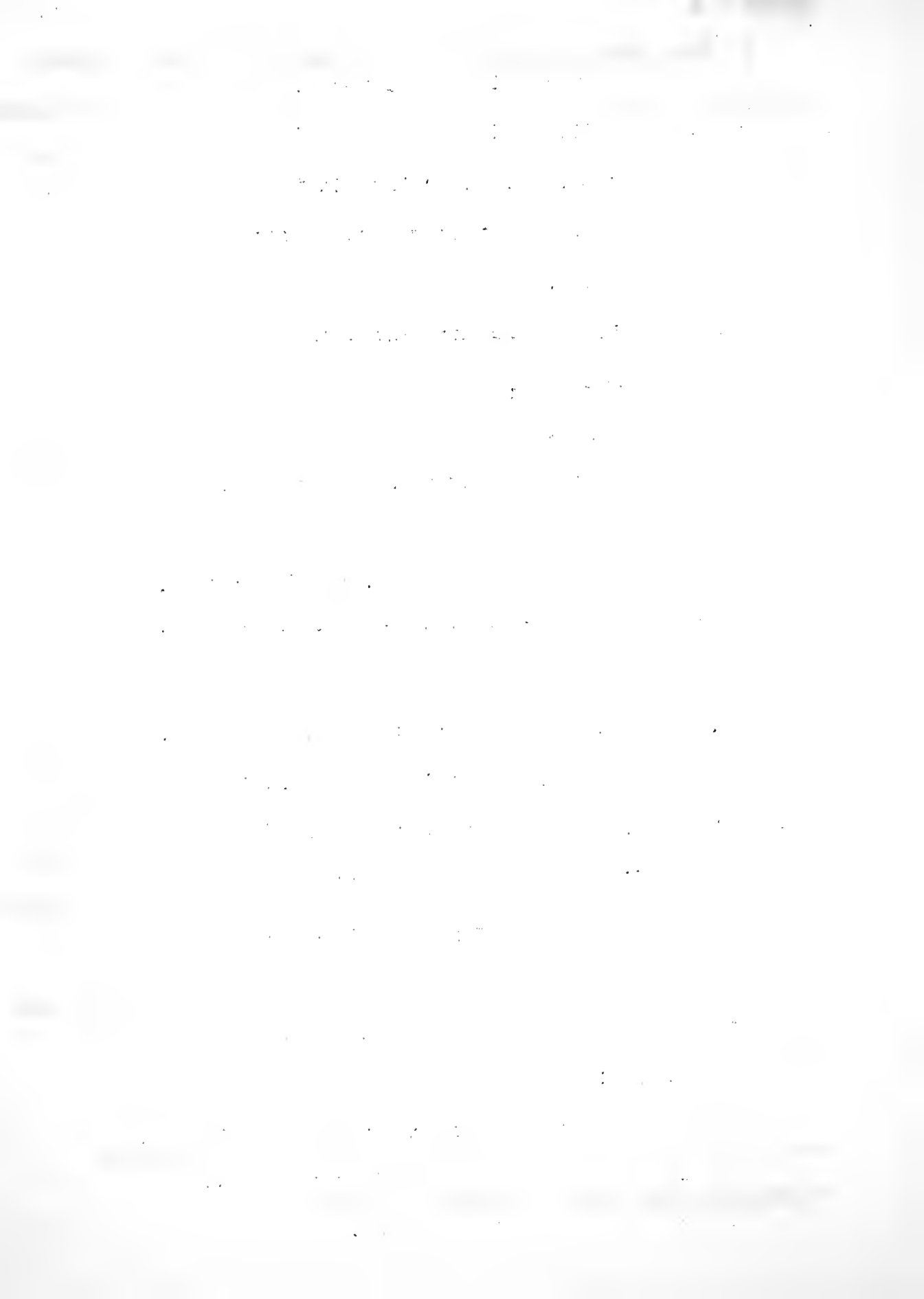
Q Mr.Schultz is mistaken in saying that you said you wanted it for your services, isn't he? A In that respect he is. I don't recall having said I wanted it for my services.

Q You didn't get anything for your services? A No, sir.

Q There wasn't a dollar paid to you that you got or kept? A No, sir.

Q Or nothing paid back to you on account of services you rendered? A No, sir.

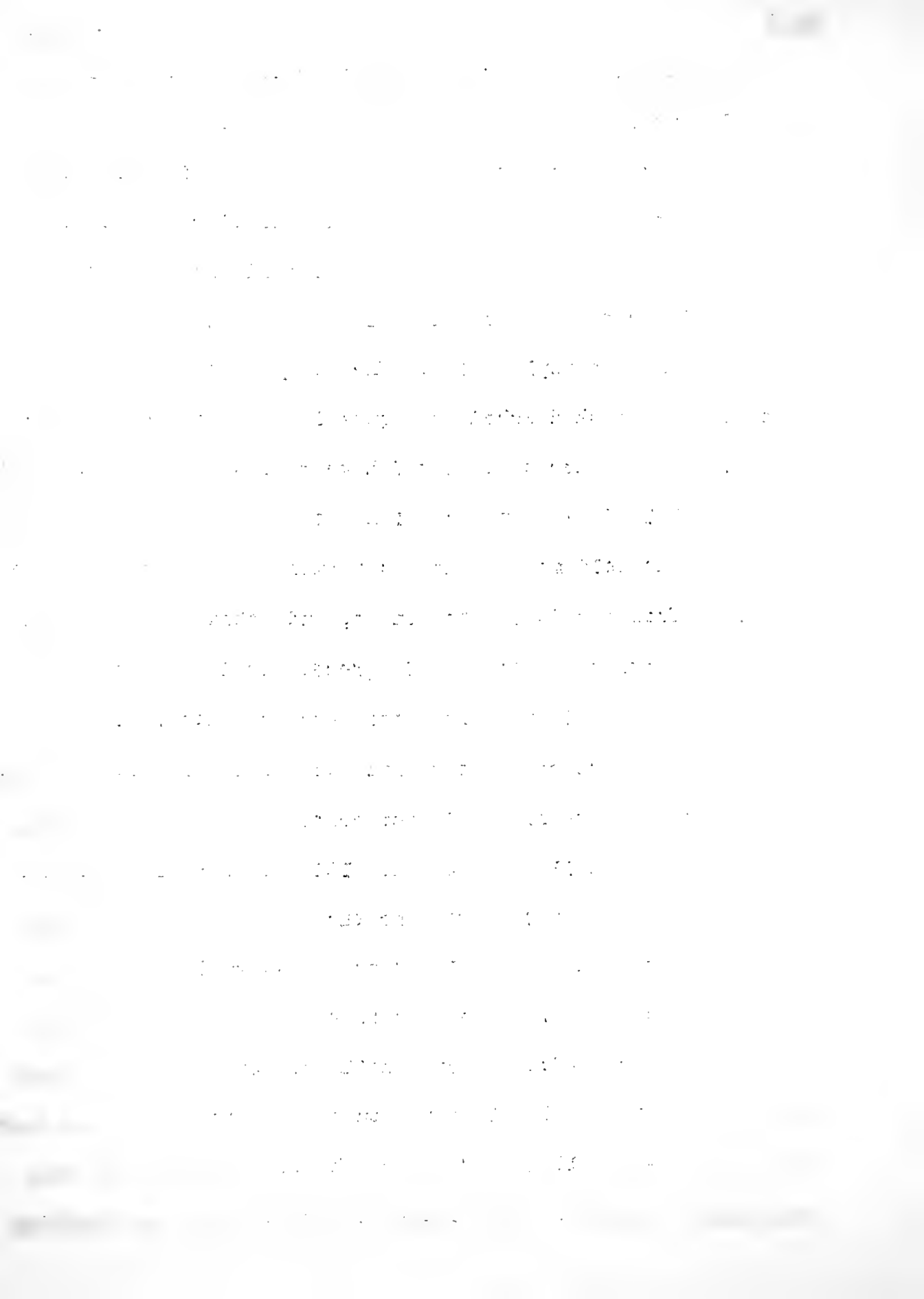
Q All you did was for the Kerr Steamship Company, and particularly for your friend Mr.Schultz? A Yes, and Mr.Schultz being also a friend of mine.



Q How long had he been a friend of yours? A I should say I have known r.Schultz close to 30 years.

Q I see. And you had been associated with him at the Club and elsewhere during that period of time? A Yes.

Q And had you done business with him at any other time? A I had one transaction with him, and in that connection I want to make an explanation. When I appeared before the subO committee I was asked that question. At the moment I did not recall. Since that time I have refreshed my mind. I find that in 1917 I had a transaction with Mr.James. I met him one time and he told me that he was forming a company to handle freight from the Jersey terminals, and asked me if I wanted to take an interest in it, and I agreed. So I advanced Mr.James five thousand dollars. He later gave me a note, signed by himself as President of the National Contracting Company. That note was for a year, at six per cent. He gave me a check for three hundred dollars in January 1919, I think it was, and about that same time he told me the Company was being liquidated and showed me a small statement -- small memorandum -- and he said there is money due to you on this, coming due to you about twenty-four hundred dollars. So he said if you will send me your note I will give you back -- send me the note that you hold -- I will give you back the five thousand, plus this twenty-four hundred. And I sent the note to him and received



later his check for \$7400 and some odd.

Q Now, had you ever had any talk with James in relation to the lease of any other Pier? A No, I had not.

Q How did you happen to come to James in relation to this Pier? A Well, I knew Mr. James had more or less familiarity with water front conditions. I knew he had the lease on another Pier on the North River.

Q That one was that? A Pier 80, North River.

Q You knew he had that? A Well, I knew his company, the Victory Steamship Company, had that lease.

Q That was his company? A That was his company, yes.

Q Well, now, did your company have the lease of any pier?

A What do you mean by our company or my company?

Q Well, what company were you associated with? A You mean what company am I employed by?

Q Yes, as assistant superintendent? A Assistant general manager of the Clyde and Mallory Company.

Q Did they have a lease of any piers? A We have five.

Q Five piers? A Yes.

Q Do you know when they got the leases? A The leases date back -- the newest lease, 14 years.

Q The newest one is 14 years? A Yes, sir, and they date back probably twenty-five years.

Q And no new lease has been taken by them within fourteen years? A There is a new lease which was taken for one of the piers in June of this year, but that was on a renewal privilege

contained in an older lease.

Q Did that require the fixing of the rentals? A The rental was fixed in it, 5 per cent of the amounts carried over the rental in the old lease.

Q The old lease specified the rental that was put in the renewal? A Exactly so.

Q And therefore it was not a matter of negotiation, it was fixed? A That's it.

Q And your company simply took advantage of the terms of the lease to renew it? A That's it.

Q Now, what ~~poxa~~ piers does your company lease?
A 36 North River; 37 North River; 38 North River;
44 North River; 45 North River.

Q I see. How long have you been with the company?
A I have been with the Clyde Steamship Company 25 years.

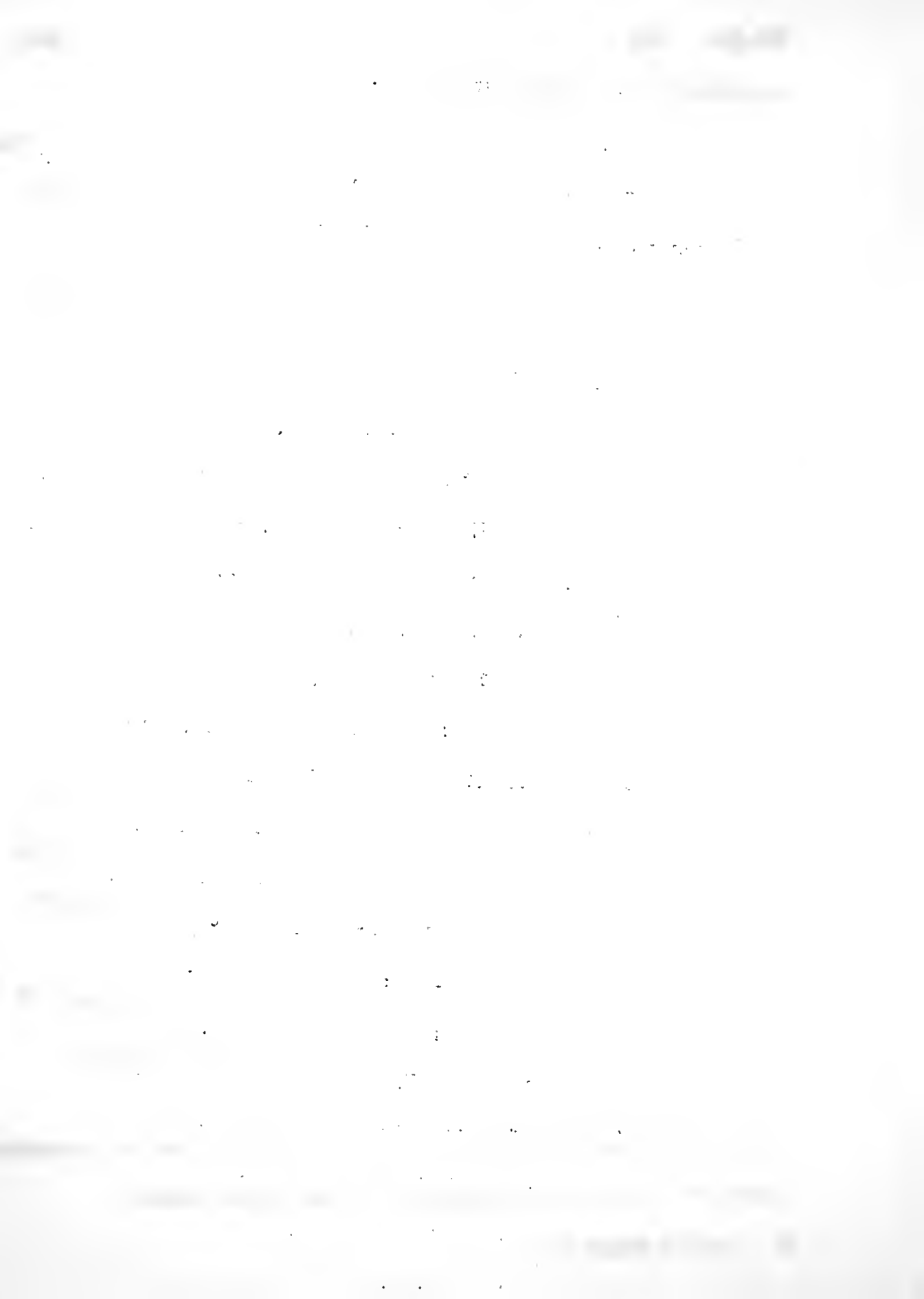
Q Did you have anything to do with the securing of any of these leases? A No, sir, those leases were arranged with other parties.

Q Did you ever have anything to do with the securing of leases for anybody than for the Kerr Steamship Company?

A No, sir.

Q You simply looked to James, because he was an acquaintance of yours and acquainted with the river front?

A That's ~~xxxx~~ it.



Q You didn't go to the dock commissioner about it at all?

A No, sir, I did not.

Q Did you have any talk with anybody else besides James about this lease? A No, sir.

Q You never told Mr. Scholz that Mr. James had anything to do with it? A No, sir; Mr. James requested his name be not mentioned in the transaction.

Q And that the money be given to him in cash?

A And that the money be given to him in cash, in weekly payments.

Q Did Mr. James tell you the money wasn't for him?

A He never mentioned who it was for.

Q Did you, when you paid it to him, did you understand that it was for his pocket, or for somebody else? A I understood it was his own.

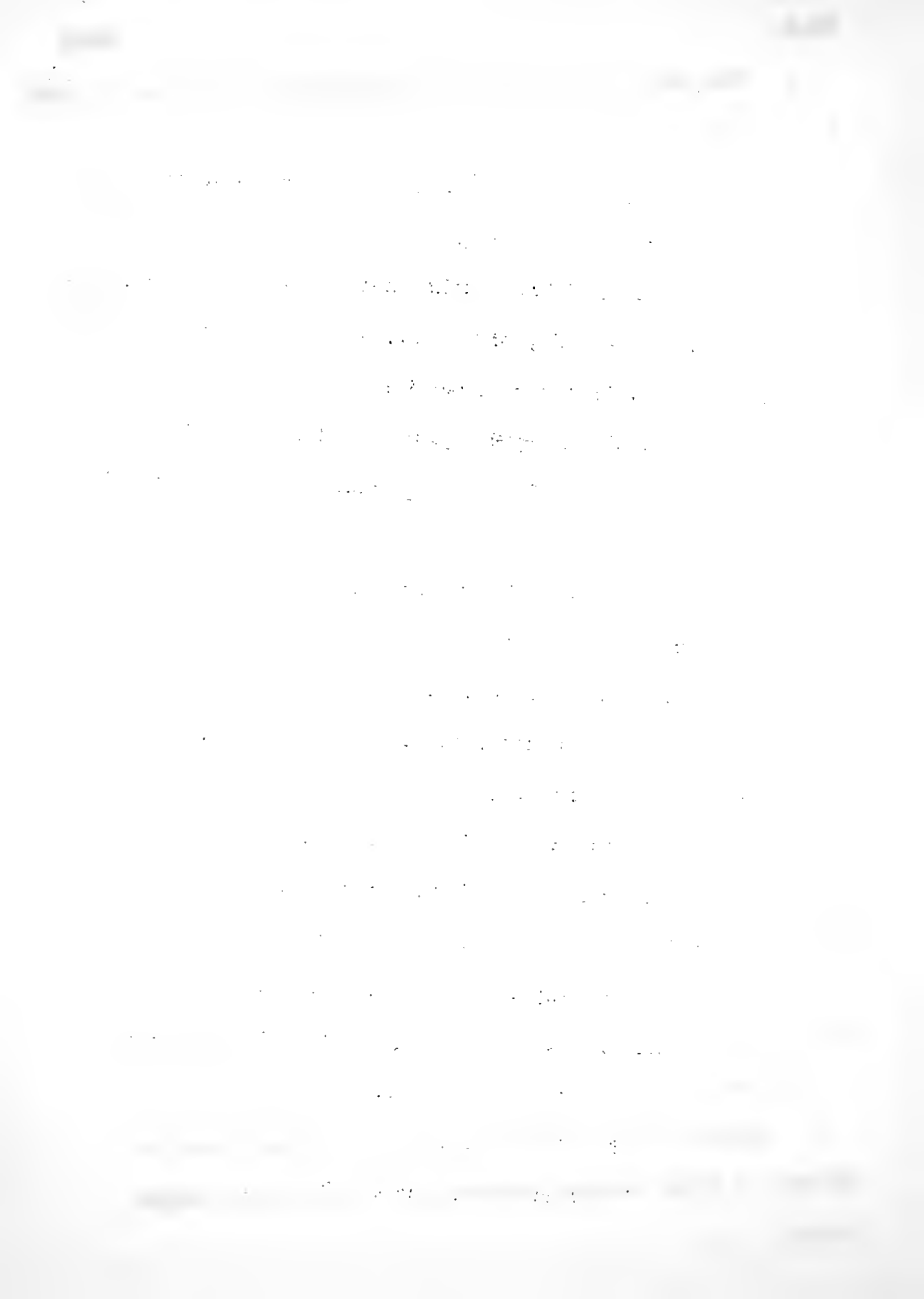
Q You understood -- A Just an impression.

Q An impression you gained was that he was to take it and keep it? A That would be the impression.

Q Did he make any report to you that he talked with the dock commissioner, or anybody in the dock department?

A He made no report to me at all.

Q Simply that it could be got? A Simply said he thought he could arrange a lease of the pier on a permit basis.



Q And that this difference between the market value and the leasehold value should be paid to him? A In cash, in weekly payments.

Q And that his name should not be known? A That his name should not be known in the transaction.

Q He is dead now? A He died either May or June last, this year.

Q This year? A Yes, sir.

Q And you have now told the committee all that you know about it? A I have.

Q Did you make an agreement with James in relation to what the difference in the market value and the leasehold value was? A No, I didn't.

Q You didn't make that agreement? A I simply --

Q Well, he told you what it was? A He told me what it was.

Q Yours was not to say, but to do and die? A Exactly so.

Q Well, now, Mr. Kelly, the object of this inquiry here is to see if it can find a basis for correction of the system of administering docks of the City of New York, so that the city will get its pay. You think that the city was entitled, really, to what it received in this commission, don't you, in the ordinary course of business? A Well, that is a

rather broad question.

Q Why is it broad, why not long?

ASSEMBLYMAN BLOCH: The gentleman may not be qualified to speak.

SENATOR DOWNING: Have you any opinions on the subject, Mr. Kelly?

THE WITNESS: None at all.

CHAIRMAN MEYER: Do you know of any reason why you should not go direct to the dock department to get a permit for a lease without paying any commission to any outside parties?

THE WITNESS: I don't know.

CHAIRMAN MEYER: You don't know of any reason?

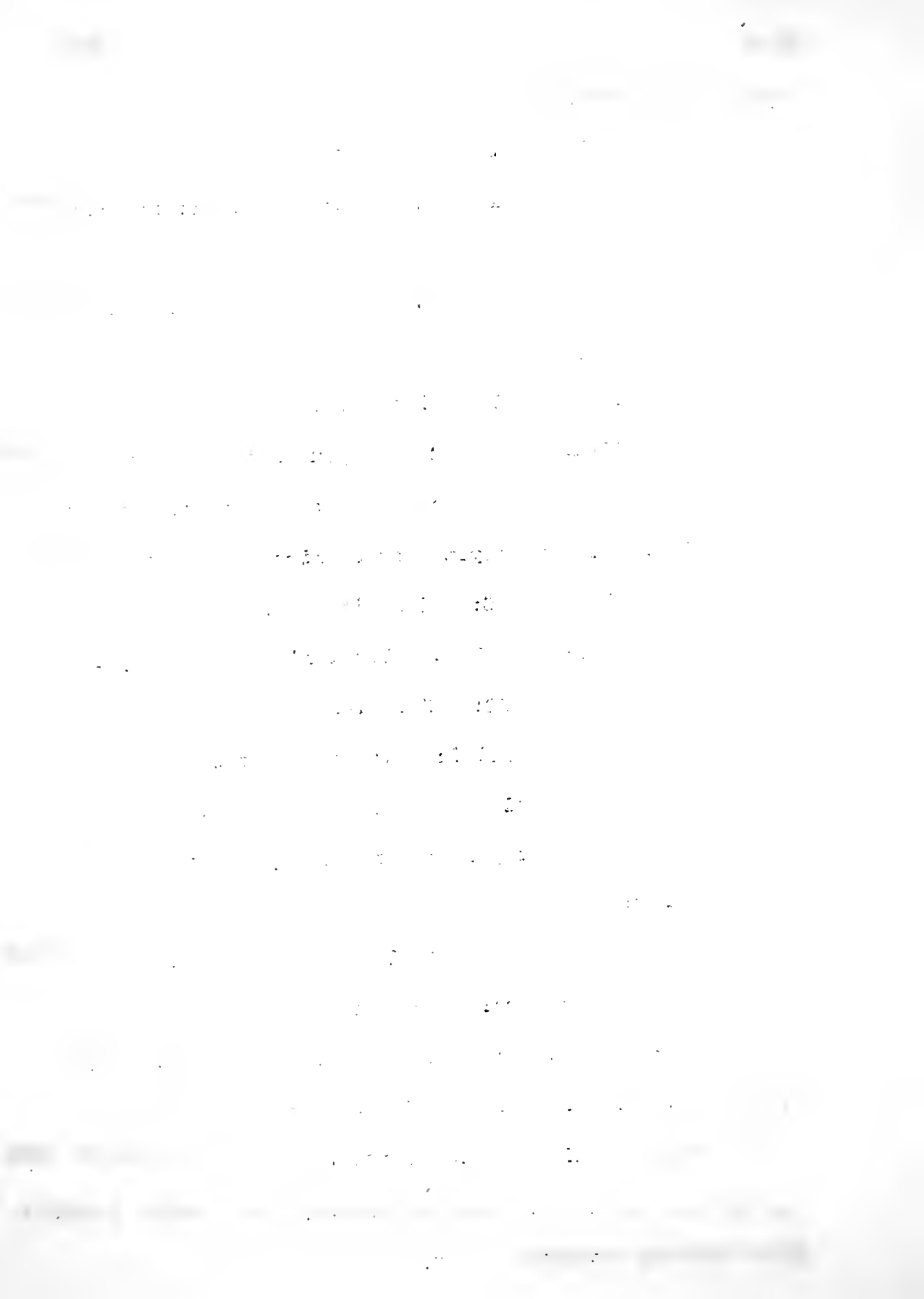
THE WITNESS: No, sir.

CHAIRMAN MEYER: It is perfectly obvious that you ought to be able to go direct to the dock department and get a lease or permit without any payment to any outside party?

THE WITNESS: Well, I haven't given any thought to this matter; I never gave that a thought.

Q Why didn't you go to the dock department for your friend, Mr. Scholz? A Because I knew Mr. James.

Q Well, you didn't think that James would interfere with you if you went to the dock department? A Well, I didn't give that any thought.



Q Did you know of anybody else to go to to help you in getting the lease? A No, he was the one that I thought would be best able to help me.

Q Did you ever hear of his helping anybody else?

A Well, I told you that I knew he had a lease on pier 80, North River, and I knew he was very well acquainted along the water front, and I thought if any one would be of help, that he could.

Q That isn't quite the question. I asked you if you had heard of his helping anybody else to get a lease?

A No, sir, I had not.

Q Never heard of it? A No, sir.

Q And you thought that your transaction with James was a perfectly ordinary normal transaction? A I do.

Q And it didn't excite your curiosity or surprise you that he wished to have the pay in cash and didn't want to have his name known, those things didn't attract your attention?

A No, I didn't give it a thought; I simply repeated the information I had.

Q It is well, sometimes, not to think? A I know we all have our opinions on that.

MR. BROWN: That's all.

ASSEMBLYMAN ULLMAN: When were you paid the \$7400?

THE WITNESS In January, 1919.

The first of these is the fact that the
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 whether it is a simple one or not.
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 whether it is a simple one or not.

ASSEMBLYMAN ULLMAN: During what period of time did this transaction of the Kerr Steamship Company occur?

THE WITNESS: From, say, about April, I should say, perhaps the last of March, to October, 1919.

ASSEMBLYMAN ULLMAN: This \$7400 was paid to you before he undertook to help you on this?

THE WITNESS: Several months before.

BY MR. BROWN:

Q When did he pay you the \$7400? A In January 1919.

Q And it had absolutely no connection with this transaction? A None whatever.

Q Well, now, there isn't any other transactions that has occurred to your mind that you ever had with Mr. James?

A That is about the only one, and I have tried to refresh my mind.

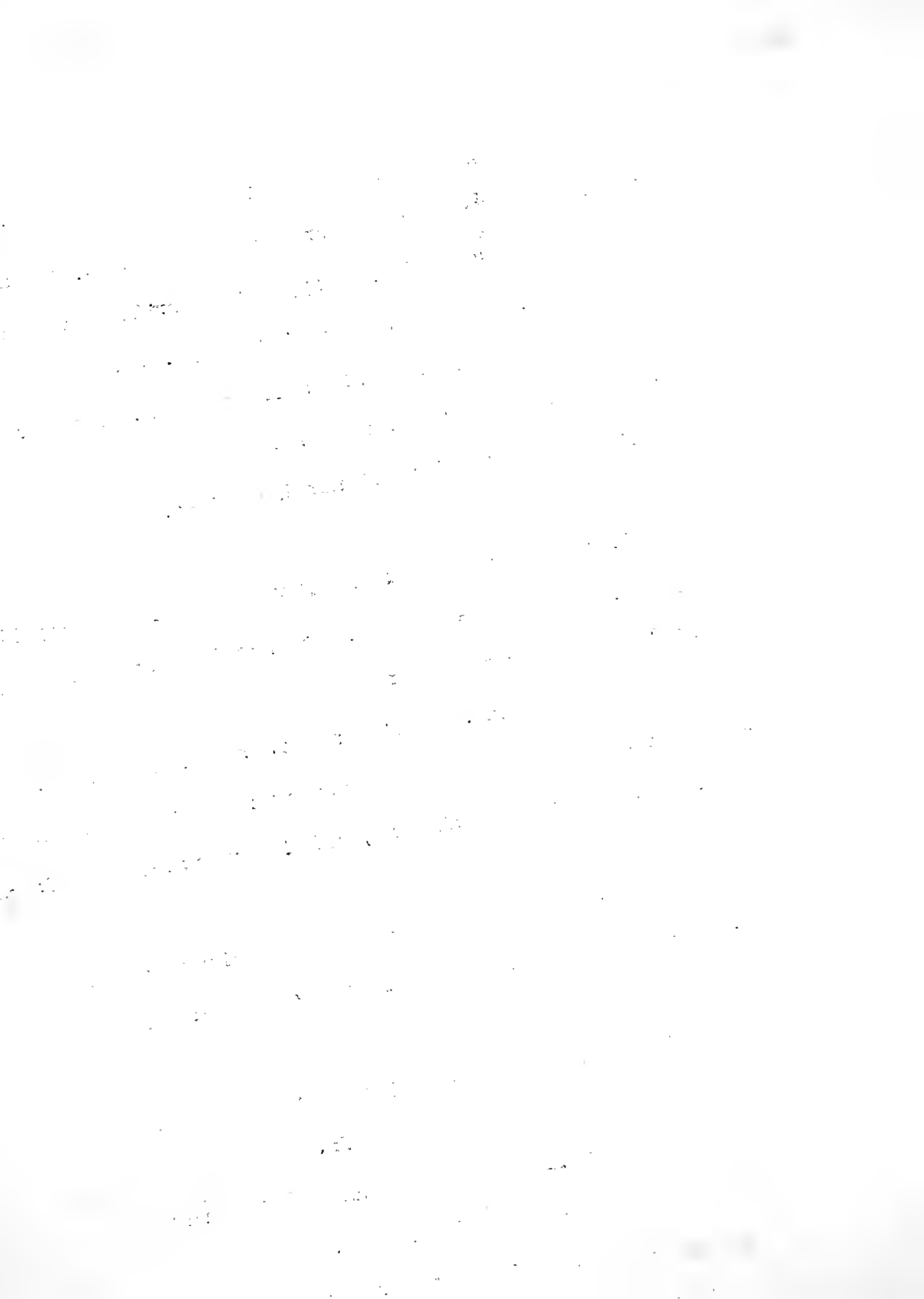
Q You don't remember ever having received any other checks from Mr. James at any time? A Other than as stated by me there.

Q Other than as stated by you? A No, sir.

Q And no cash payments? A No.

Q Did James tell you that he had any influence with the dock department? A He did not.

Q Or that he had any friend in the dock department?
A He did not.



Q Or that he had any means of bringing any influence to bear to secure the lease? A He did not. He simply said, "I will see what I can do, and I will let you know in a day or two."

Q He was a man of few words and quick action?

A Well, you can put it that way if you want to.

Q Well, that is true, isn't it? A This would indicate it, yes.

BY THE CHAIRMAN:

Q You were subpoenaed before the sub committee?

A Yes, sir.

Q Did Mr. Scholz call you up and tell you he had been subpoenaed? A He did.

Q Was that before he had appeared before the sub committee to testify? A I believe it was.

Q Well, did he call you up, did you go and see him, or did he come and see you? A I did not.

Q You talked to him over the telephone? A He simply told me that he had been subpoenaed.

Q That is all the conversation you had with him?

A That's all.

Q After he appeared before the sub committee, did you see him? A I saw him once.

Q Where? A In the Whitehall Club.

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Q Did you talk to him about his testimony before the subcommittee? A I did not.

Q Did he tell you that he had testified before the subcommittee? A As I recall it, he mentioned that he had been before the subcommittee, yes.

Q He didn't tell you what he testified about?

A No, he did not. I was attending a dinner at the Whitehall Club, given by the American Steamship Owners' Association to the Japanese steamship people, who were visiting this country, and I was going up in the elevator, and I met Mr. Scholz coming down.

Q Did you have any talk with him at any time anywhere about this transaction after he was subpoenaed, and before you appeared before the subcommittee? A No.

Q Have you discussed the testimony that you were going to give, or that he was going to give? A Why, that was the only time I saw Mr. Scholz, except today.

Q Did the Clyde Steamship find it necessary to get permits to occupy any other lines than those they had leased all during the war? A Yes, sir.

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then goes on to discuss the various factors which have shaped the development of the United States, including the influence of the British, the Spanish, and the French. The author also discusses the role of the American people in the development of the country, and the importance of the American Revolution. The paper concludes by discussing the future of the United States, and the role of the American people in shaping that future.

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Q To any considerable extent? A Well, on a number of occasions we had occasion to -- a number of times we had occasion to seek what you call dead berths or layup berths for ships.

Q And did you get them from the Dock Department? A I did.

Q You got them? A I did.

Q Yourself? A Yes, sir.

Q Did you employ anybody else to work for you? A I did^d not.

Q You got them personally? A Yes, sir.

Q Did you pay anything to anybody for the privilege?

A We paid the Dock Department and are paying it now. We have some ships now in dead berth at the legal rate of wharfage.

& Q Did your company pay anything beside the legal rate?

A Not a cent.

Q They paid no money in addition? A Paid no money.

Q Have you had occasion to get such permit before this permit was obtained for the Kerr Steamship Company? A I would not say before.

Q Were the permits that you got revocable permits? A Yes, they were all revocable permits.

take 7-2

Q And how long did you occupy the docks under those revocable permits? A Various permits.

Q Some of them six months? A Oh, no.

Q Three months? A Some might be a week and some might be a month, and maybe in extreme cases two months; although we have some ships now in dead berth at Whale Creek which is near Greenpoint that have been there perhaps for a year.

Q All those you obtained personally? A Yes.

Q To whom did you apply for them in the Dock Department? A The dock masters in the districts located.

Q The dock master in which the dock is located? A Yes.

Q Not at the office? A Not at the office.

Q Did you or the company pay anything on account of any of them? A Not a cent.

Q Did you get what you wanted? A Not always.

Q Was this business of any considerable amount, this permit business? A No, no.

Q Small? A In the aggregate, yes.

Q Small in the aggregate? A Yes.

Q You had five docks? A Yes, sir.

Q That you were using, and this was a little overflow that you required? A Ships to lay up, no use for them.

Q Ships to lay up? A Yes, as a result of the business depression.

Q Do you know of anybody else that paid anything to get any privilege such as the Kerr Steamship Company paid? A I did not, no, sir.

Q You haven't heard of any? A No, sir.

Q It was a novel feat to you? A It was unknown to me as far as any personal experience was concerned.

Q It was a novelty, a new thing? A It was a new thing to me.

Q That such payments should have to be made? A Yes.

CHAIRMAN MEYER: You said "So far as you personally were concerned", what do you mean by that?

THE WITNESS: I mean, I had no personal transactions of that nature.

CHAIRMAN MEYER: You were asked whether you knew of any others? X X

THE WITNESS: I answered "No".

Q It didn't take your breath away when James told you what he wanted? A No, sir, it did not.

Q You knew he was not engaged as a broker, that he was not a broker in relation to docks? A I didn't know it at all, no, sir.

Q What say? A I did not know, no, sir.

Q Well, you didn't understand he was a broker? A Well, I gave that particular matter no thought.

Q What say? A He might have been a broker.

Q In addition to his other duties which you have spoken of? A He might have been a broker, yes.

Q But you didn't go to him because you knew he was a broker? A I went to him because he was a friend.

Q You didn't know he was a broker? A I didn't know definitely he was acting as a broker.

Q You never heard of his being connected with any other lease? A No, sir, excepting the leases to Pier 80 I told you about.

Q I am not tapping you. A Beg pardon?

Q I am not tapping you. A I see.

Q Didn't you explain to Mr. Scholz that there was another party that you were not at liberty to name -- A (Interrupting) No, sir.

Q (Continuing) -- to whom you had to pay this money?

A No, sir.

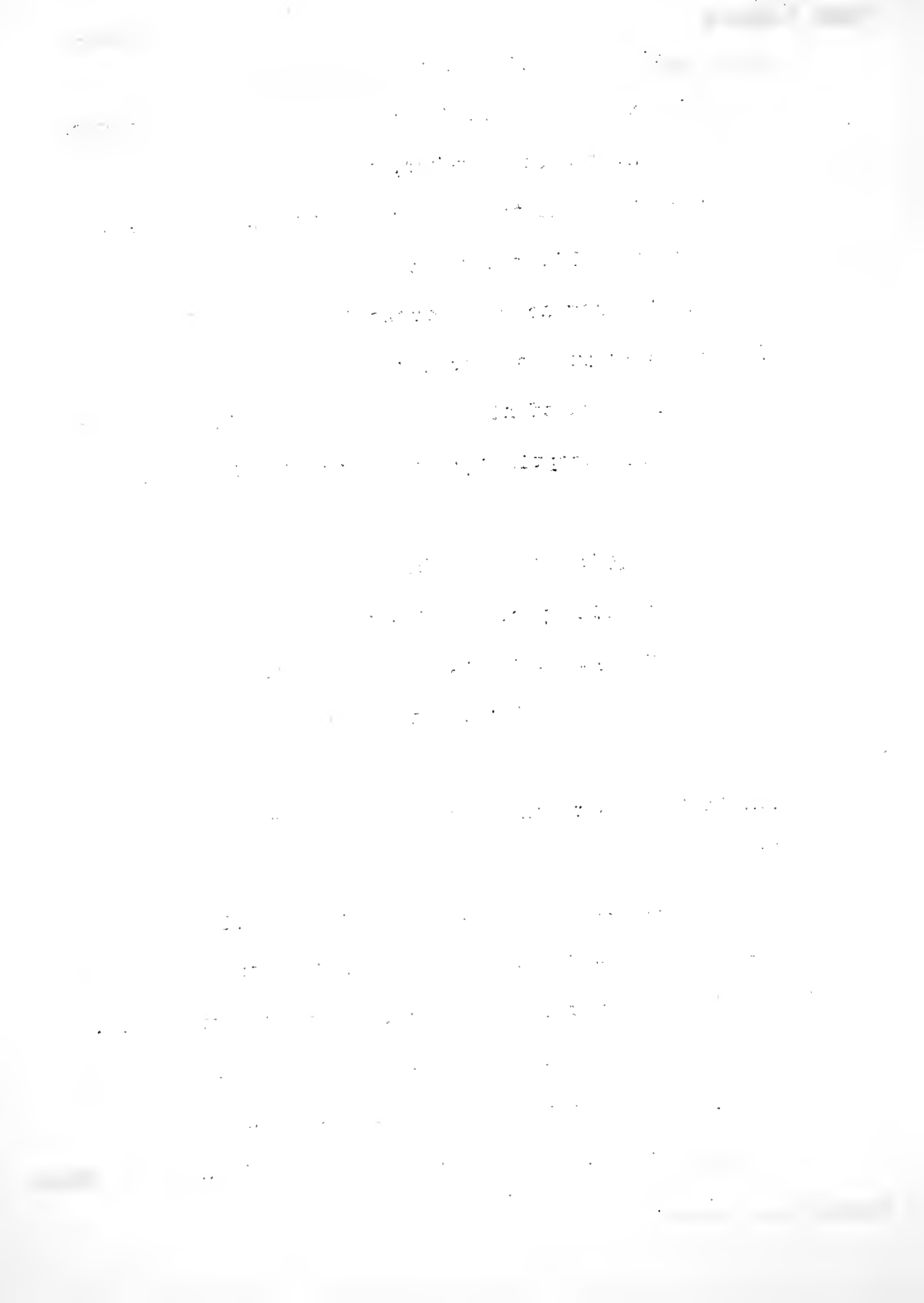
Q Were you willing that Mr. Scholz should believe that you took that money for helping him in relation to that lease?

A I didn't give that particular question any thought at all.

Q You gave that no thought at all? A No thought at all

Q You knew he asked you as a favor? A I did.

Q He done favors for you at some time, hadn't he? A Well--
(incomplete answer.)



Take 8--SPs--1

Q You had had a pleasant acquaintance? A We had had a pleasant acquaintance, yes. I can't recall any particular favors he had rendered me.

Q Or that you had done him favors? A Or that I had done him favors.

Q And you can't explain how he came to you really for this favor? A I would not undertake to answer that, because I do not know what was in his mind.

Q The devil himself can't tell what's in a man's mind.

A Not very often.

Q SENATOR BROWN: That is all, Mr. Kelly.

THE CHAIRMAN One more question.

Q You say that you went yourself, or your company did, direct to the Dock Department when they wanted as permit, but when you wanted a permit for somebody else you did not go to the Dock Department; you went to James; is that it?

THE WITNESS: I did not say I went to the Dock Department.

THE CHAIRMAN: I understood you so.

SENATOR BROWN: He said he went to the dock master.

THE CHAIRMAN: Well, what dock master?

SENATOR DOWNING: I suggest that the Chairman be given a copy of the testimony so that he can see what has been said.

Take 802

THE CHAIRMAN: Why didn't you go to the dock master in this case?

THE WITNESS: The transactions affecting our company occurred subsequently to the originating of this transaction.

THE CHAIRMAN: Subsequently?

THE WITNESS: Yes, and it was all together -- quite a different proposition also. In one case these piers are of no particular value. They are open piers. I mean any ship can go there if they are open. In this other case it was a covered pier, of much value.

THE CHAIRMAN: That is all, Mr.Kelly. I think I will excuse Mr.Scholz and Mr.Kelly.

MR.KELLY: I beg your pardon?

THE CHAIRMAN: I think I will excuse you from further attendance, and Mr.Kelly.

I am going to call Mr.Rippon.

F R A N C I S C. R I P P O N, was thereupon recalled as a witness and having been previously duly sworn, testified as follows:

BY SENATOR BROWN:

Q Mr.Rippon, have you got the figures of the rentals of the private piers in the North River? A Yes, sir.

Q Won't you give them to the Committee? Won't you

give the assessed valuation and rentals of these piers, describing the piers? A You don't want me to cite the individual pier, Senator?

Q You can name the piers. There are only five of them, are there? A There are five piers, which I have been able to take as being privately-leased piers. The assessed valuation of those piers, together with the contiguous bulkheads which are leased with the piers is \$4,927,500. The return or the revenue which the owner gets from the lessees is \$567,613. I should make a remark in connection with this revenue. Some of the leases in question provide that the lessee pay taxes, as well as all other expenses in connection with the pier. I have included the amount of the taxes paid by the lessee as part of the rent, so as to make the rental of these piers uniform.

Q You mean to make the basis uniform? A To make the basis uniform, the revenue which I now give would be subject to taxes being paid by the owner of the pier.

Q And these piers give an average return of how much?

A In percentage eleven-and-one-half per cent on the total assessed valuation.

Q And that is inclusive of taxes? That is the taxes should be deducted from that to show the net income? A The net income to the owner would be this amount less taxation.

Q. Or on the basis of the last taxes imposed how much?

A Approximately about eight-and-three-quarters per cent net.

Q And those leases provide for maintenance and repairs?

A Maintenance and repairs and dredging.

Q And dredging? A With the possible exception of one lease which is rather questionable in character.

Q Which is what? A Which is rather questionable on that point.

Q On the question of dredging? A On the question of dredging.

Q Not clear? A Not clear.

Q But you think it includes it? A I am afraid I am not in a position to venture an opinion.

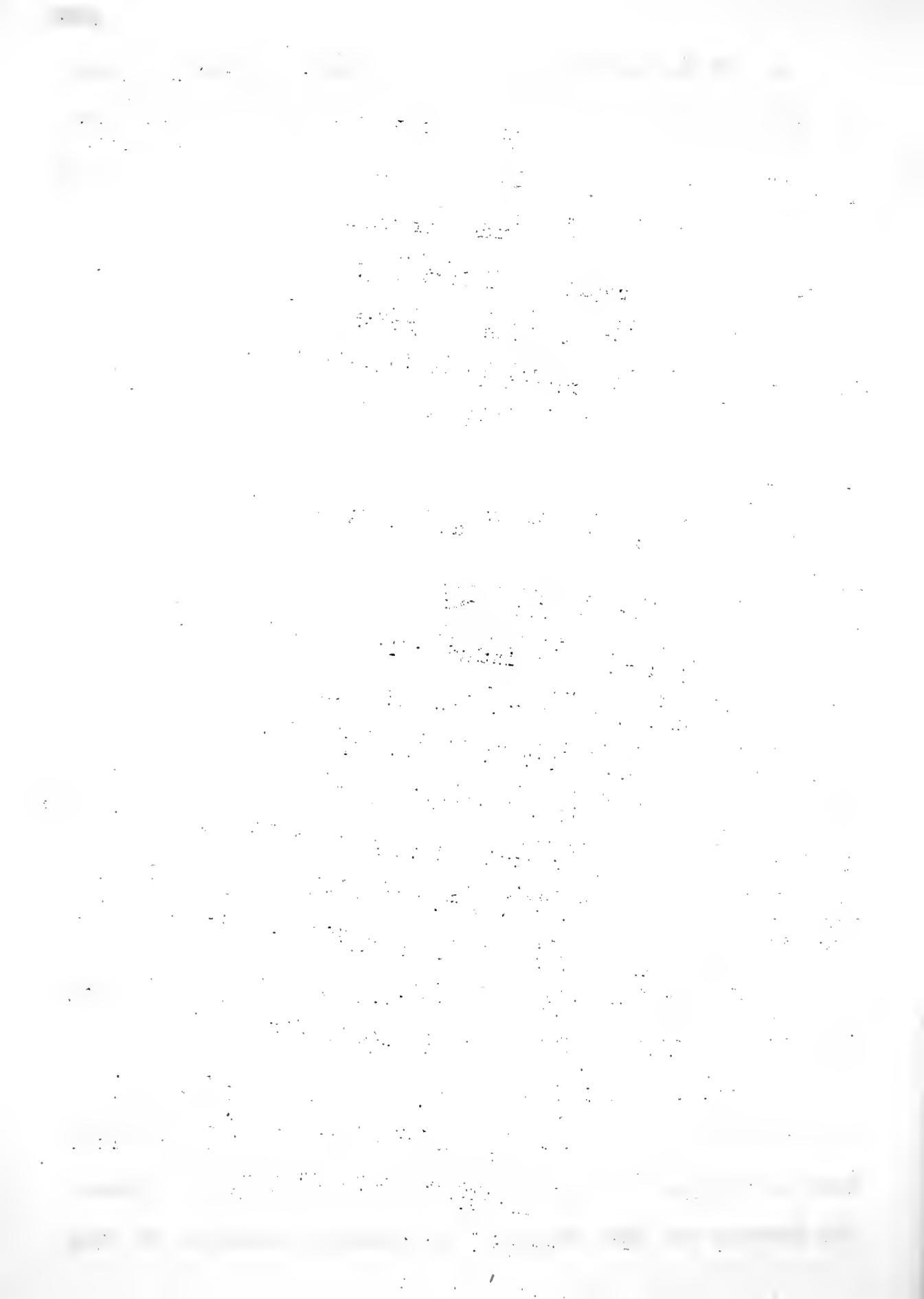
Q To interpret it? A Or interpret it.

Q Have you made a further study of the Staten Island piers, continued your study of them? A I should like to add, Senator, that in connection with the study of private piers on the North River I have made a further extended study of the City piers on the North River.

Q All right. I will take them up first. A And would like to give that information.

Q Yes, I would like to hear that. I had forgotten.

A I have taken all the City-owned piers and other property, such as bulkheads, and so forth, on the North River between the Battery and 59th Street. The assessed valuation of this



property shows a value of \$113, 600,500.

Q Just a moment. While it may not be quite relevant. While the privately-owned piers were raised forty per cent this assessment was not raised in 1919, substantially? A The question you raise, Senator, applies to the valuations of Brooklyn property as contrasted with the East River property, and does not refer to the valuations on the North River ---

Q No, but these valuations were not substantially raised? A These valuations were not substantially raised in 1920 or 1921.

Q Q Go on? A Of this amount \$109,845,500 is in revenue-producing property, which is made up of piers and the bulkheads which are leased with the piers. The piers themselves represent a value of \$98,240,500, and the bulkheads \$11,605,000. For the purpose of showing the revenue under these City-owned piers I have divided them into several groups, the main group of which is made up of leased piers which are shedded,--improved piers, Senator -- of which there are fifty-four, the valuation of which is \$81,812,500. The income returned from those piers for the year 1920 is approximately \$3,072,894, which represents a percentage return on the assessed valuation of 3.68 per cent, or a little over three-and-one-half per cent.

SENATOR DOWNING: May I interrupt right there. Senator Brown, do you regard that as a reprehensible showing, the figures he has just stated showing that 3.68 per cent on the

valuation —

SENATOR BROWN: Highly so.

SENATOR DOWNING: Don't you recall the testimony of the Dock Commissioner regarding the policy of the Department in this particular?

SENATOR BROWN: I do, and I also recall the untold millions that were paid to other people which did not go into the Dock Department.

SENATOR DOWNING: No one told me that. The occasion for that having passed, we can get down somewhere near the truth.

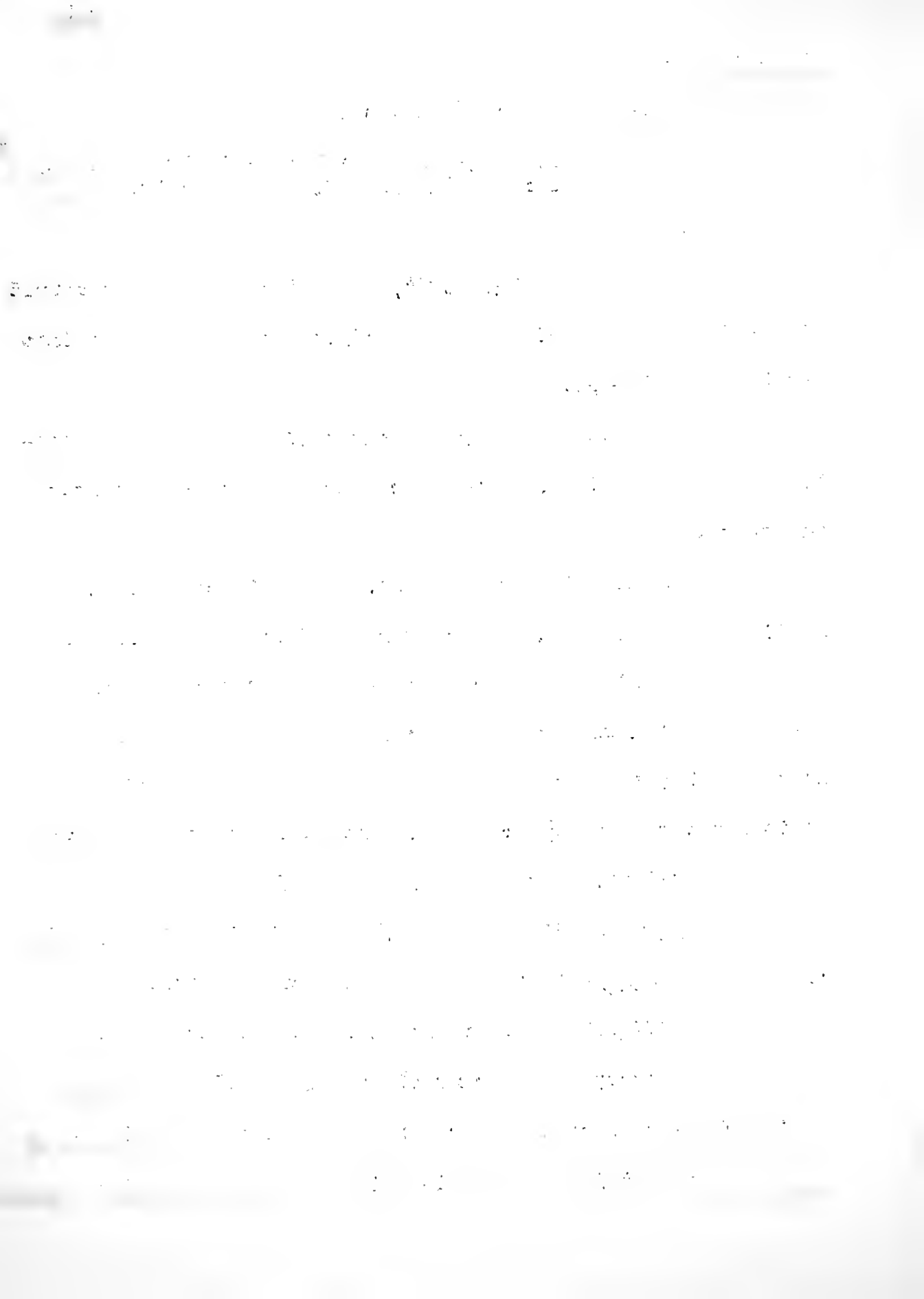
SENATOR BROWN: No, there is at least fifteen millions wasted, and I will show you before I get through.

SENATOR DOWNING: How can he show you fifteen millions wasted when you have heard the testimony, and also heard the Mayor on the stand regarding the Dock Department. It is not a commercial transaction at all. It relates also to the general policy to the Port of New York.

SENATOR BROWN: You will see. While the City got 3.68 the steamships in one way and another paid ten.

SENATOR DOWNING: Oh, no. Not in one way or another. By every possible proof, you have tried to bring

some evidence here into these sessions that an untold — of course it is untold, — and it is going to remain untold — some-



SENATOR BROWN: I have showed today in the last instance brought out before the Committee.

SENATOR DOWNING: You have showed nothing.

SENATOR BROWN: That the lessee of the Dock paid as much as the rental for an irrevocable permit as blood money.

SENATOR DOWNING: But there is nothing to show that the pier which this testimony related to ought to have been charged any more for or the City of New York received any more for. What the brokerage charge was for a man named James and somebody else has nothing to do with the question you are bringing up.

SENATOR BROWN: I would rather argue with you in conference.

SENATOR DOWNING: We never get a chance to have a conference. I have called a dozen of these conferences.

SENATOR BROWN: I would not mind a conference with you.

SENATOR DOWNING: You would not mind a conference. I don't know that I could return that compliment.

SENATOR BROWN: You and I want to talk to one another.

SENATOR DOWNING: Yes, and I want to get the facts into the record.

SENATOR BROWN: I am going on with my examination.

Q What was the tax rate in 1920? A 3.48.

Q And this 3.63 received by the city left the city without the collection of any taxes on this property whatever?

A Absolutely.

Q So that the net return over and above the taxes would be 1.20? A 1.20, Senator.

Q And out of that would have to come the cost of administration, any expenses incurred by the city in work on the docks, and any losses in the business, is that true?

A That is correct, Senator.

Q Now, you have made a study of docks, and of the administration of docks, and what the department has to do from time to time with reference to the various docks; would 1.20 pay the cost of administration including those expenses? A No, sir.

Q It would not? A No, sir.

Q So that the city really received no income at all from those eighty-odd million of docks? A I think that is a fair statement.

Q You think that is a fair statement? A Yes.

Q Now, is there anything more? A So far as this study goes, sir, I have not completed the report as to the different groups made up by these piers on the North River.

Q That is, you will have some further information?

A I have some further information now. Should you want it

in regard to all the piers in the North River. The group that I have just given figures on represents the largest, or the main group of piers. There are some other piers.

Q That you have the study and completed? A I have the study here.

Q Give it to me? A There was another group of piers which are leased, unshedded piers, that is, unimproved piers, of which there are four, with an assessed valuation of \$2,615,000. The income return from these leased unimproved piers is \$76,100.99, or in percentage, 2.9 on the assessed valuation. A further group of these piers which are --

Q (interrupting) That 2.9, that has no reference to ^{if} taxes, and if the taxes were deducted 2.48, it would leave .42? A Yes, sir.

Q As the return over and above taxes? A Correct; in other words, the revenue would be absorbed practically by the taxes.

Q Yes? A Another group consists of 19 piers, which have not been leased, but which have been occupied by various permittees under revocable permits issued by the Commissioner of Docks. These piers are shedded piers, with an assessed valuation of \$3,667,000, and an income return for the year 1920 of \$700,599.50, or a percentage return on the assessed valuation of 8.8 per cent. In this connection I would like to



point out that this latter group of piers occupied under permit approximates more closely the market value of piers than those piers which have been leased at various times in the past.

Q On these piers there would be over and above taxes a return of 6.32? A In 1920, and 1921 it would be less, because of the increased tax rate.

Q That is, as much less as the tax rate is higher?

A Correct.

Q But it would be over 6 per cent? A It would be over 6 per cent.

Q For just those piers? A For those piers.

Q Have you got any further study there? A Yes, sir.

Q Now, I want to say in relation to those permittees, as to these permittees, they do not do repairs or maintenance, they do not have a lease? A They are not required to do — They are required to do any special repairs that may be caused by any fault or delinquency on the part of the permittee.

Q Yes, but it is not repairs in the sense of repairs or maintenance to permanent leases? A That is so, Senator.

Q Nor are they required to dredge? A Nor are they required to dredge.

Q And whatever those expenses were would have to be deducted from the net returns? A Yes.

Q And would it reduce the showing to any considerable

FW-4

extent? A Not to a very considerable extent.

Q But to some extent? A To some extent.

Q Depending on circumstances, variable? A Variable.

Q Are there any other piers that you have found that are rented at what approximates a reasonable return on the investment as shown by the assessment roll? A I have, sir.

Q I would like to mention high and low value returns in each group.

Q Yes? A In the group of leased piers --

Q You mean, the leased ~~parr~~ piers, or the permittees?

A No, I am referring in this case to the leased piers, the piers which are tied up by long leases, and which to all intents and purposes are private property.

Q Yes? A Pier 69 occupied by the Bristol City Line, pays a return on the assessed valuation of 12.1 per cent.

Q How much? A 12.1 per cent, 12.1 per cent.

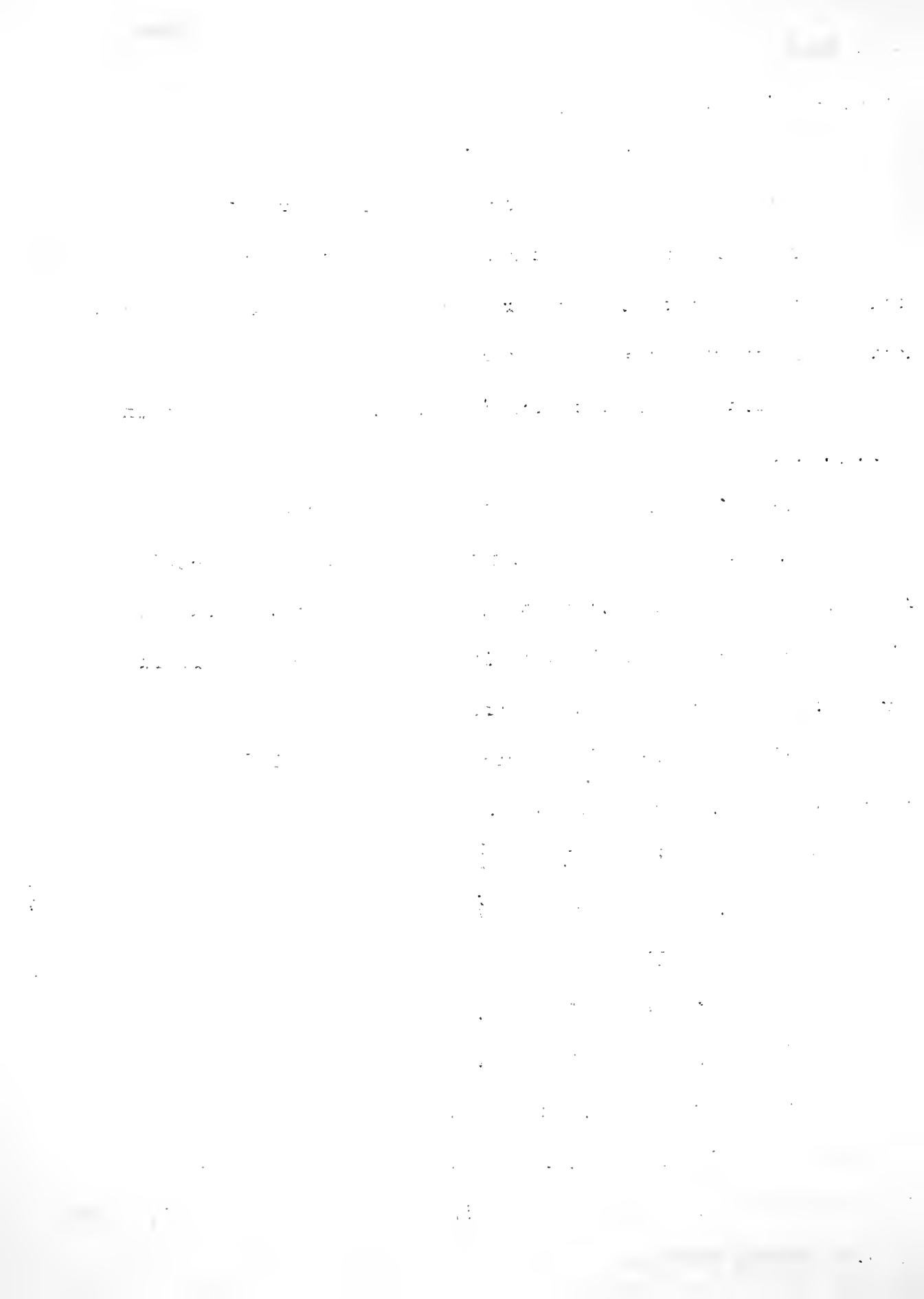
Q And would show a net return if taxes were deducted of a little less than 10 per cent? A Correct, Senator.

Q 9 1/2? A A little more.

Q A little more than 9.5? A Yes, sir.

Q Now, how was that pier leased? A It is the only instance since January 1st, 1918, of a pier being leased in an open or competitive manner, in other words, it was let by public auction.

AB
10-1



RV-10-2

Q That pier was let at public auction and it yields over and above taxes more than 9 1/2 per cent? A Correct.

Q On the assessed valuation? A On the assessed valuation. I will also point out, sir, that the lease provides for full repairs by the lessee.

ASSEMBLYMAN MCARDLE: What pier is that?

THE WITNESS: Pier 69, North River.

ASSEMBLYMAN MCARDLE: Whereabouts is that?

THE WITNESS: West 29th Street.

MR. BORNW: I would like to call the attention of that to the committee now, as a very important fact. I would like to call attention to the fact that the largest return on a lease on the North River yields 12.1 per cent, or more than 9 1/2 per cent exclusive of taxes, and that that is the only pier that was let by competitive bidding.

THE WITNESS: The pier which produces the lowest return on the assessed valuation in this group of leased piers is pier 81, leased by E.E. Olcott.

Q They run the Hudson River boats? A Yes, sir. The percentage return on the assessed valuation on that pier is 1.7 per cent.

Q Or less than the taxes? A Or less than the taxes. I will also like to call the committee's attention to the fact that it has been shown that the lessee of this pier, pier 81,

RW-10-3

North River, has so leased the pier to various sublessees as to make a profit of \$272,824 in the twenty year period of his lease.

Q During the 20 years, you mean? A During the 20 years. I don't want to imply that he has made it, but will have made it by the expiration.

ASSEMBLYMAN McARDLE: Is that at the foot of Desbrosses Street?

THE WITNESS: That is at the foot of 41st Street.

Q You mean, that is the profit for the whole 20 years?
A That is the profit for the whole period.

Q They have occupied it themselves? A Yes, sir.

Q And these rentals that you speak of are simply rentals when they didn't need to occupy it? A In that respect, I should say that that rental, that profit, is on only a part of the pier, and not the entire pier.

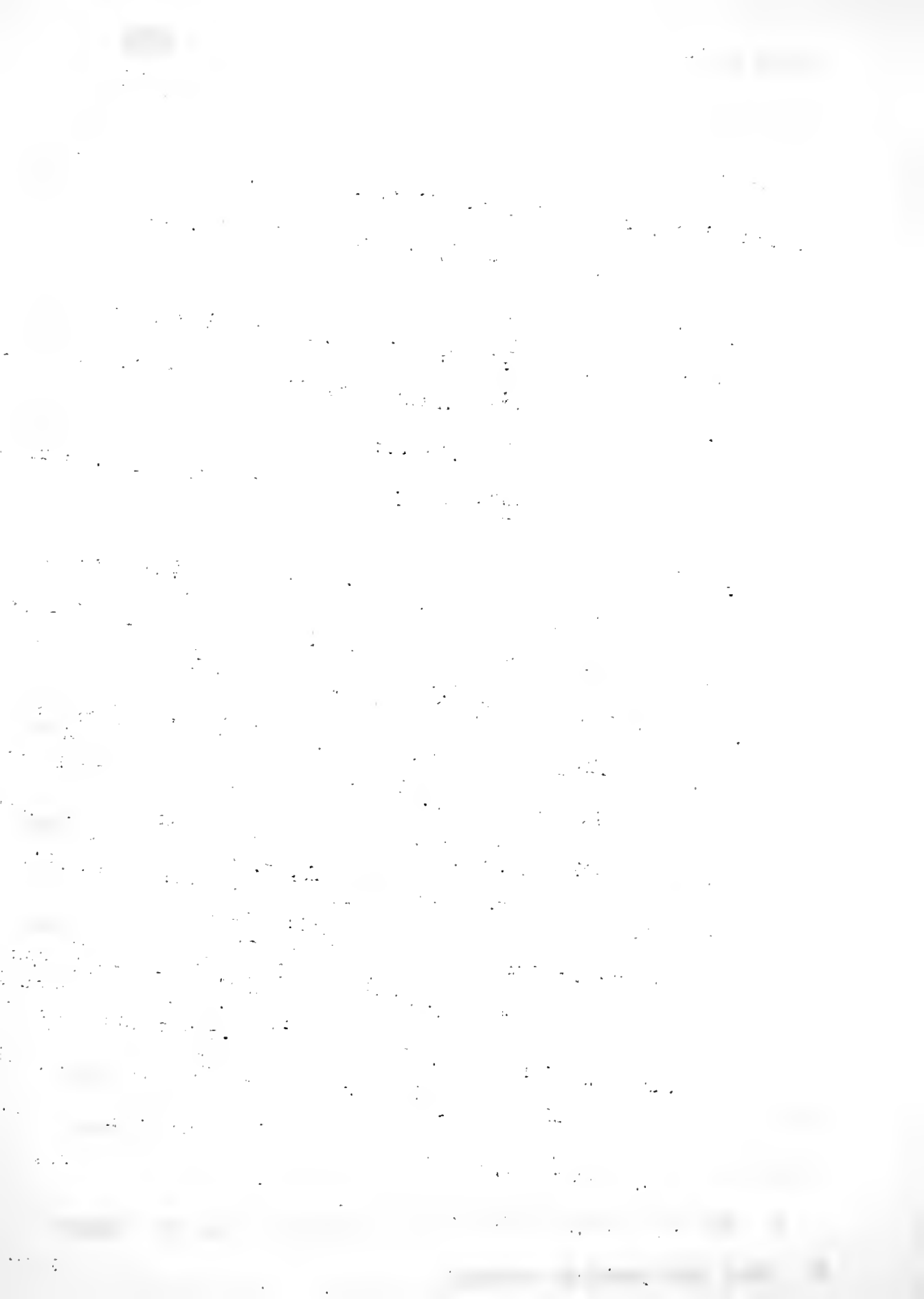
Q What part of it? A I haven't got the technical description of it here, Senator. It is not the whole pier.

Q What is their annual rental? A \$8000 a year.

Q That is, their profits during the twenty years have exceeded the entire cost of the lease to them, the entire rental to the city? A Yes, sir.

Q And they have used it for their boats all the while?

A They have used it partly.



Q. And then they have taken in besides that, for a part of the pier, more money than they paid on their lease?

A. That appears to be the case.

Q. Is this a deep pier, a deep water pier? A. Yes, sir.

Q. That is an active company, with boats coming in every day? A. Yes.

Q. They run between Albany and New York? A. I believe that's the line, Senator.

Q. Anything more? A. Yes. There is a group of six piers which have been leased to the Lehigh Valley and the Pennsylvania Railroad under special arrangement, whereby the pier structures revert to the city; for the reason that income on these piers cannot be very accurately computed, I have omitted these piers from the study except to make up the total valuation.

Q. On account of special terms? A. On account of special terms. Then there are 21 piers which are maintained for open or public wharfage and for the use of various city departments. The total valuation of these piers is \$8,840,000. The city receives a revenue from them, or rather, received in 1920, an approximate rental of \$135,559.14.

Q. From the 21 piers? A. From those 21 piers.

Q On the Recreation piers? A On the entire amount that was entered in that, for the reason that some of those piers are used by other public departments.

Q Other what? A Other public departments, from which the Dock Department would not receive any rent, and it would not be fair, it would not indicate a proper return.

Q Any recreation piers? A Yes, used by the Department of Health, and so on, but I would like to take those piers which are not so used.

Q They are used for public ^{purposes} ~~services~~ and rental? A Yes, for public purposes.

Q And rental? A Public purposes and rental, yes, and show that in the one case in 1920 in the case of Pier 1, the City received a return of 6.1 per cent. on its valuation, the most of which was received from permits. In every other case -

Q (Interrupting) That is exclusive of taxes of course? A Oh, yes.

Q The taxes have to be deducted? A Oh, yes, that is exclusive of taxes.

Q I should say inclusive of taxes. I used the wrong words. A It depends from which point of view you look at it, sir.

Q Yes, the taxes would have to be deducted to show the income? A Oh, yes.

Take 1103

Q Yes? A Now, for the other piers, the six other piers which are not used by any other City department —

Q (Interrupting) Or for recreation? A Or for recreation there is a return in every case of less than two per cent on the assessed valuation.

Q Or less than the taxes? A Less than the taxes in every case.

Q Are those piers available for shipping and for commerce? A Most of those piers are unshedded piers or open piers.

Q They are used a good deal for tramp ships and other lines? A Oh, yes.

Q Not for regular lines? A No.

SENATOR DOWNING: What is the general location of that group?

THE WITNESS: The general location is between 48th and 54th streets.

SENATOR DOWNING: On which river?

THE WITNESS: On the North River. I don't know whether you want me to give you figures on the high and low of these other classes including ~~these~~ this class, but I can do so.

Q Yes, give it to me if you have it. We are going to finish the Pier business up complete. A The piers classed as a public pier which produce the highest return is Pier 1.

Q I think you gave that. A That is right, I did, but I did not give the lowest.

Q Yes? A The pier in the group of public piers which produces the lowest return on the assessed valuation is a Pier No.92 which produced in the year 1920 .8 per cent on the assessed valuation.

SENATOR DOWNING: 8 per cent.

THE WITNESS Point eight, eight-tenths of one per cent.

SENATOR DOWNING: Eight-tenths.

THE WITNESS: Of one per cent.

SENATOR DOWNING: Now, where is that located? Have you anything to indicate?

THE WITNESS: That is on 52d street, West 52d.

SENATOR DOWNING: And that is one of the unshedded piers?

THE WITNESS: It is an open unshedded pier.

SENATOR DOWNING: Are you aware that in that neighborhood they are now in the process of erecting new piers?

THE WITNESS: I am, Senator.

SENATOR DOWNING: And that that condition that you speak of will probably be obviated upon their completion?

THE WITNESS: Oh, yes.

~~MYERBERRY~~ SENATOR BROWN: These are known as open piers.

SENATOR DOWNING: I want to get you straight but I don't want this for the record.

(Senator Downing made a statement off the record.)

Q Does this last group of piers represent what they call the open piers? A They represent the public piers which are sometimes called open piers.

Q Yes? A In this case most of the public piers are open piers as well, that is, piers unshedded.

SENATOR DOTYING: Unshedded open piers.

Q Those classes of piers that Sabbatino & Company got perrits for? A That was part of the class of piers.

Q Have you made any study in the Dock Department of the amount of money that was paid to them by Sabbatino & Company during the period under examination here? A Just the data I got from them, Senator, which I have not brought down. It was exactly the same as was furnished to the Committee before and which is on the record. In other words, the Committee sent a request to the Dock Commission for a full statement of all charges, all wharfage paid the City, cash or in its charge account, by Sabbatino & Company since January 1st, 1912, and the information returned was the same as has been already produced before the Committee.

Q That is in evidence? A That is.

Q Do you remember the amount? A The amount of the charge account I think was \$47,000.

Q \$47,000? A \$47,000. That is what they paid the City.

Q Yes? A Not what they received from their clients.

Q We found they had a bank account of a million dollars and I thought it must be larger than that? A No, that was all, but this question was brought up at the time and I think there was some dispute as to the figures which were produced before the Committee as representing the payments to the City by Sabbatino & Company?

Q Yes. A And this further information was obtained at the request of some member I believe of the Committee, from that point of view.

Q You have not been able in relation to these several piers to say how much was received for each pier? A No, sir. I can show how much is received by the City for each pier.

Q But you can't show what was actually received for the service? A No, sir. I would like to point out now that that would take a great deal of labor on the part of the Committee to attempt to get such detailed information for all the piers that have been considered.

SENATOR DOWNING: Aren't dock masters' returns available in these cases, the amount received for certain private piers?

THE CHAIRMAN: You can get what the city receives, but you cannot get what the lessees received.

SENATOR DOWNING:
 XXXXXXXXXXXX The amount of these piers, the amount which the city received, was the amount they paid the dock master?

THE WITNESS: The point in question comes up, how much shipping paid for the use of these particular piers, but shipping paid more usually than what was represented by the city's receipts, because of the presence of intermediaries who leased the piers and sublet them.

SENATOR DOWNING: Now, before I forget - pier 92, you said. Isn't that about the highest number of numbered piers on the North River?

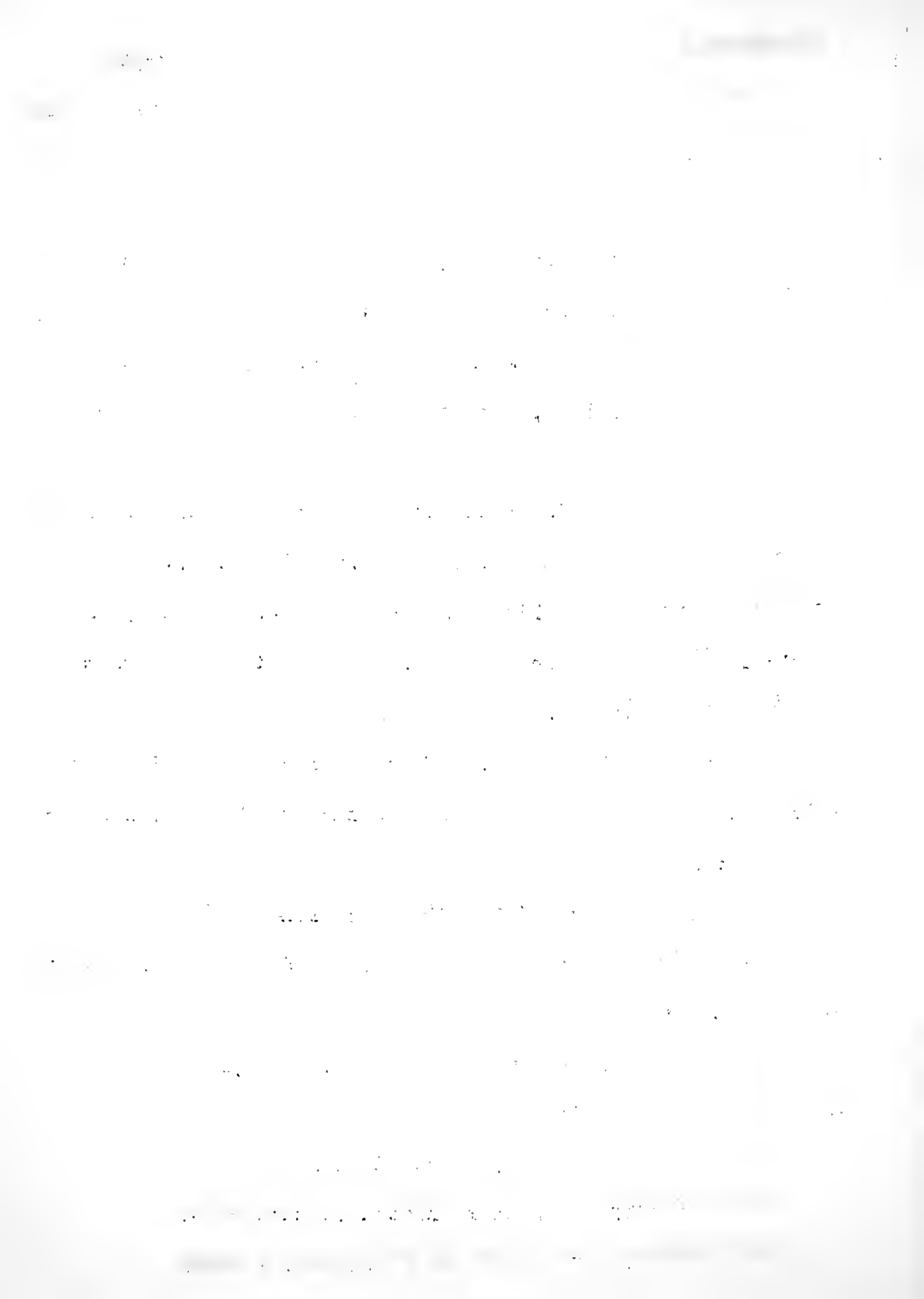
THE WITNESS: Pier 92? Did I mention that?
 Yes This study of mine only goes up to 59th Street. That is at 52nd Street.

SENATOR DOWNING: Are there any piers beyond that? Any regularly constructed piers?

THE WITNESS: You mean shedded piers.

SENATOR DOWNING: Either shedded or unshedded.

THE WITNESS: No, there is 97 of them, I think.



SENATOR DOWNING: I mean approximately 92 is about the limit of the city's regular piers of any kind?

THE WITNESS: It is towards the end. It is not at the end.

SENATOR DOWNING: Now, I didn't say that. I wanted to know how many in addition to 92 there were. My impression was that there could not have been many more.

THE WITNESS: No, it is towards the end. I would like to point out in regard to this class of open piers in which some question has been raised as to their commercial utility and value, that they represent a comparatively small class in respect to the total valuation of the North River given as one hundred and thirteen millions. That the two main classes or the three main classes of leased piers, improved and leased piers, open or unimproved, or the improved piers which have been occupied by the permittees, do represent, in the question of their return, a very fair indication of conditions, without regard to the physical properties themselves.

SENATOR DOWNING: That is exactly what I have been trying to get at, if I can get at it, not being as clever as the regular counsel. Excluding these piers, such as 92, then the return would be a fair return?

THE WITNESS: No, you misunderstood me. I meant to say this, that the groups that have been mentioned this afternoon

of leased piers, improved or shedded, or leased piers unshedded, and piers under permits, represent the big or vast bulk of the North River property. In other words, of \$113,000,000, considerably over \$100,000,000, ~~is~~ represented by those improved piers, with their contiguous bulkheads.

SENATOR DOWNING: Have you come to any actual conclusion as to just the amount which represents the improved as against the unimproved piers on the north river?

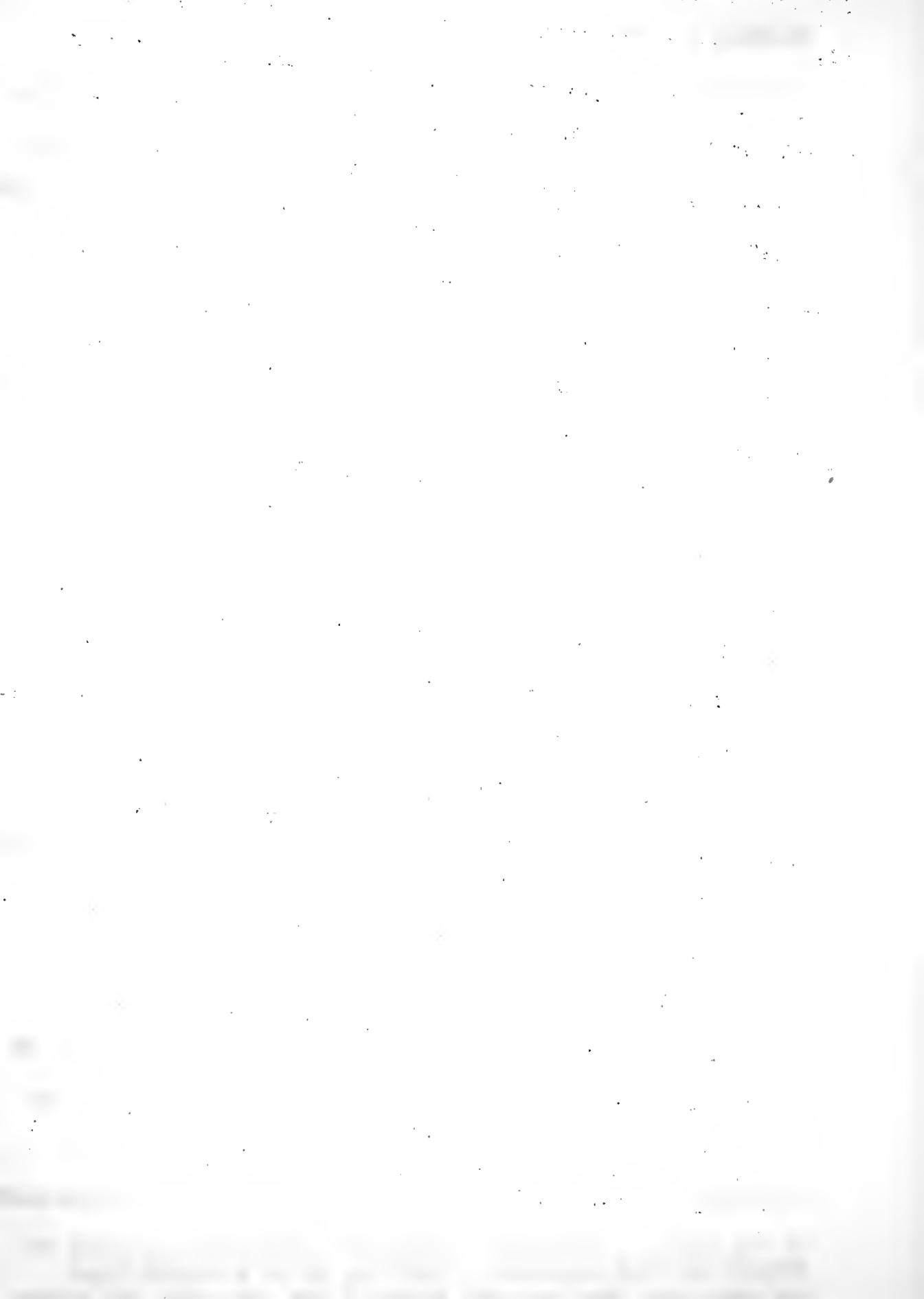
THE WITNESS: Oh, yes, I have given them. Possibly you were out when I was giving them.

SENATOR BROWN: He gave them all in detail.

SENATOR DOWNING: All right; I don't want you to repeat them.

Q Now, have you got anything further in your study of these piers on the North River? A yes, Senator. I don't think I gave the high and low returns on the piers occupied under the permits in 1920. Pier 86, occupied by the Oriental Navigation Company, produced a return on its assessed valuation in 1920. of 11.12 per cent.

Q Of the assessed value? A Of the assessed value, in 1920, of 11.12 per cent, and pier 65, occupied by the Panama Railroad Company, gave the lowest return on its assessed valuation, the return being 4.9 per cent, and it is unnecessary to say that all these returns are subject to or would be subject to lost taxation. That is, it is a return which the city gets, but the city loses at the same time the exempt



taxation on the property.

SENATOR DOWNING: Is the Panama Railroad a direct lessee at this time?

THE WITNESS: No, it is not now.

SENATOR DOWNING: It is not a direct lessee from the dock department?

THE WITNESS: No, it was in 1920 a permittee.

I would like to draw the attention of the committee to a governmental report entitled, "United States Shipping Board Terminal Charges at United States Ports", which was submitted February, 1919, to the Government Printing office. Page 27 reads: "Evidence which was secured by the Board of Appraisal of the United States Army in the hearing on the value of the piers leased by the Bush Terminal shows dockage charges"---

Q Now, the Bush Terminal owns piers in this city?

A Owns piers in this city. (continuing) "Shows dockage charges at some of the piers in New York Harbor during the war. The testimony shows that in the pre-war period berthing space for vessels ran from \$60 to \$80 per day; that during the war the rates increased from \$250 to \$500 per day. Without exception the witnesses testified that these increases in rates had no relation to the cost of the piers. One witness testified that both pier owners and leasees

expected to make a higher rate of profit than they did three or four years ago because, as he said, 'everybody is doing it, is charging what he can'.

SENATOR DOWNING: That is, the lessee was getting all that he could, and there was no power within the dock department to remedy that situation?

CHAIRMAN MEYER: That is a debatable point.

SENATOR DOWNING: Oh, no, you help to beat a bill that would have allowed the dock commissioner to correct that very injustice at the last session of the Legislature.

CHAIRMAN MEYER: There is no foundation for any such statement as that. Get it straight, and don't make any such statement as that, because it is false.

SENATOR DOWNING: You mustn't say that; it is not proper, and the records bear me out, and your statement is not the statement that any gentleman ought to make to another.

CHAIRMAN MEYER: You stated that I helped to beat the bill.

SENATOR DOWNING: There is just such a thing as I have said, there is just such a record as I have said, there was such a bill.

SENATOR MEYER: And did I help to beat it?

SENATOR DOWNING: Well, your vote is against it, every Republican, I think, in the Legislature was against it.

SENATOR MEYER: The bill never came to a vote.

MR. BROWN: It never came out of the committee.

SENATOR DOWNING: Oh, yes, it passed the Senate, and it passed the Senate under arrangement to be beaten in the Assembly.

MR. BROWN: The acoustic properties are very bad in this room.

SENATOR DOWNING: I am being understood very well.

CHAIRMAN MEYER: Who introduced the bill?

SENATOR DOWNING: Why, the Senator who was beaten here a year ago on Washington Heights, a Democratic Senator.

MR. BROWN: I insist --

SENATOR DOWNING: I want to get this record straight.

MR. BROWN: We can't get it straight.

SENATOR DOWNING: I see that.

MR. BROWN: It is immaterial, anyhow, wholly immaterial.

SENATOR DOWNING: It is absolutely immaterial. The very condition you are reading into this record could have been prevented by the passage of a law which the dock commissioner asked the Legislature to pass.

MR. BROWN: Well, they didn't have all the facts that this committee had, they didn't know.

SENATOR DOWNING: William CopeLand Dodge is the Senator I referred to.



SENATOR MEYER: Well, it happens that I wasn't in the Senate at that time, so I couldn't very well vote to defeat that bill.

SENATOR ROBINSON: Then you had better retract what you said.

SENATOR DOWNING: So far as him, yes, and you voted in the Senate.

SENATOR ROBINSON: I wasn't in the Senate when William Copeland Dodge was there, so that would be perfectly correct.

MR. BROWN: Was I there?

SENATOR DOWNING: No, you were not. That was a loss to the city.

CHAIRMAN MEYER: I think he had better withdraw the statement.

SENATOR ROBINSON: You and I helped to beat it, and we weren't there.

CHAIRMAN MEYER: I think we will get over that.

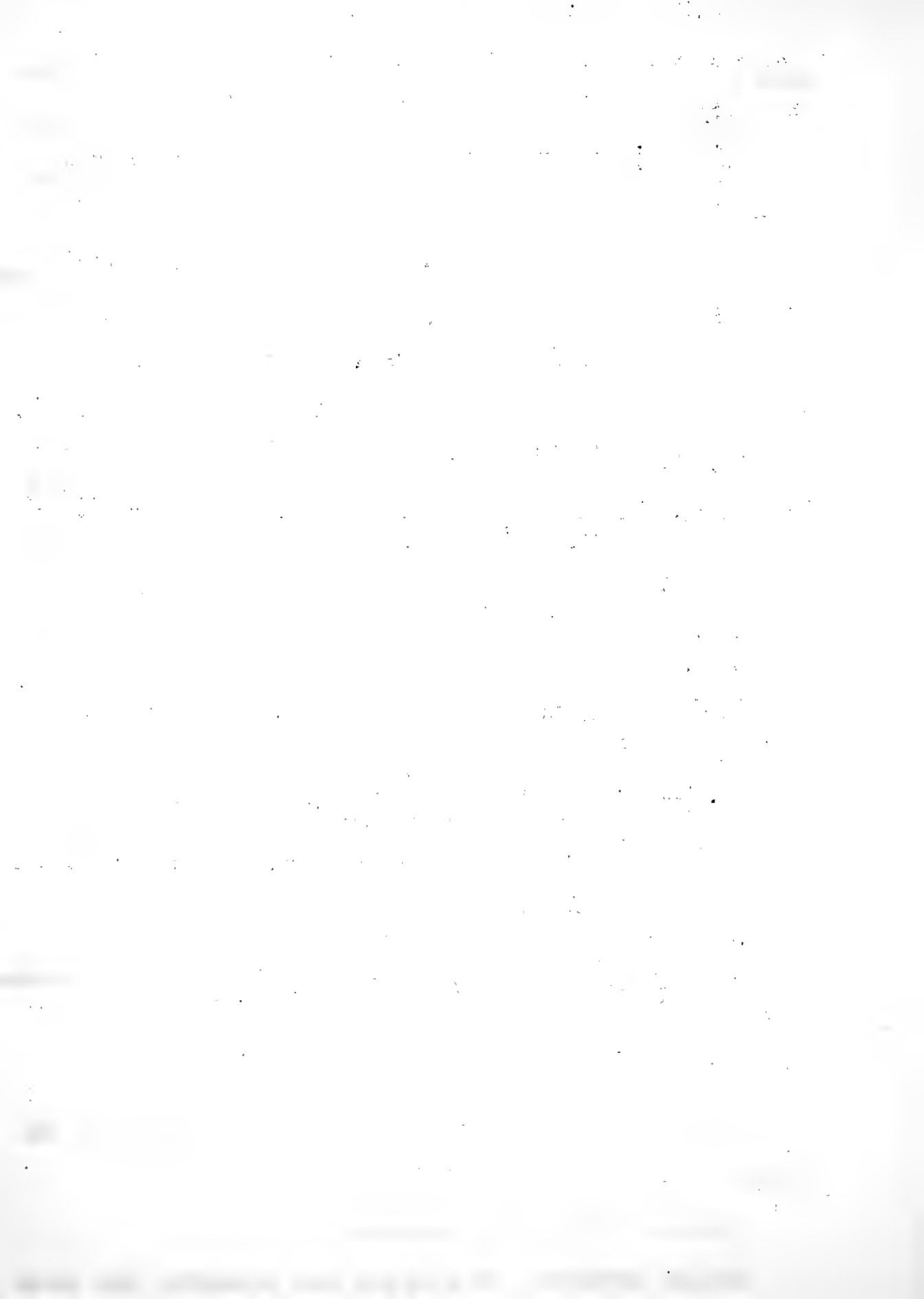
SENATOR DOWNING: The echo of November 8th was terrible, never
too; you will/get over that.

MR. BROWN: A great many consolations.

SENATOR DOWNING: It isn't any to me; I told you all along.

CHAIRMAN MEYER: Now, proceed.

SENATOR DOWNING: We have got that straight, that there



was a bill introduced.

SENATOR ROBINSON: Also that you made a good many mistakes

SENATOR DOWNING: As to the individuals, but not as to the main question.

THE WITNESS (continuing): The report continues:

"Some witnesses maintained that the high prices were due to the increased demand, but the Board of Appraisal found that the Custom House statistics showed that the amount of oceanic shipping had decreased after the beginning of the war, notably after 1916. There is some evidence that an understanding between pier owners had an influence upon the high prices paid for piers. An examination of the testimony shows increases in berthage charges in some instances of 800 per cent." That is all in respect to that.

MR. BROWN: Now, you come tomorrow afternoon.

CHAIRMAN MEYER: We will now adjourn until 2:30 tomorrow afternoon.

(WHEREUPON, at 4:30 P.M. the Committee adjourned to meet at 2:30 P.M. Wednesday, December 7th, 1921).

PROCEEDINGS BEFORE JOINT LEGISLATIVE COMMITTEE
TO INVESTIGATE THE AFFAIRS OF THE CITY OF NEW YORK.

.....

Marshall & Munson,
Official Stenographers,
150 Nassau St., New York.
PHONE: Beekman 2764.

PROCEEDINGS

of the

NEW YORK STATE JOINT LEGISLATIVE COMMITTEE
TO INVESTIGATE THE AFFAIRS OF THE CITY OF NEW YORK.

New York City, New York,
County Court House,
December 7th, 1921,
2:30 o'clock p.m.

PRESENT:

SENATOR SCHUYLER M. MEYER, Chairman.

ASSEMBLYMAN SIMON L. ADLER, Vice-Chairman,

SENATOR THEODORE DOUGLAS ROBINSON,

SENATOR MAXWELL S. HARRIS,

SENATOR BERNARD DOWNING,

ASSEMBLYMAN CHARLES D. DONOHUE,

ASSEMBLYMAN MAURICE BLOCH,

ASSEMBLYMAN PETER A. McARDLE,

HON. ELON R. BROWN, Counsel,

and Associates.

Marshall & Munson,
Official Stenographers,
150 Nassau Street, New York.
BEEKMAN: 2764.

SENATOR BROWN: In the unexpected absence of Mr.

Rippon, I will call Commissioner Lee. He has been sworn.

J O H N P. L E O, recalled.

BY MR. BROWN:

Q You are no longer connected with the Department?

A Street Cleaning Department?

. Q Yes. A No, sir.

Q You resigned, when? A November 17th.

Q Have you any suggestions to make for the reorganization of the department that you think would be of benefit to the city and economical? A Yes, sir. I have in my mind certain suggestions that I think would be of good service.

Q What are they? A I believe that the present system of Borough Government of the Department should be abolished.

Q Of Borough what? A Borough government of the department, borough autonomy.

Q Do you mean now the boroughs of Queens and Richmond, or general? A No, sir. We have under the jurisdiction of the Street Cleaning but three boroughs, Manhattan, Bronx and Kings.

Q Yes? A Richmond and Queens --

SENATOR DOWNING (interrupting) A You mean Manhattan, Kings Bronx and Brooklyn. I just want to correct you. / ~~Queens~~ is a county.

THE WITNESS: Manhattan, Bronx and Brooklyn, yes, sir.

Richmond and Queens are each under the charge of the president of the Borough.

Q They are autonomous in that respect? A Absolutely, yes, sir.

Q And not under the jurisdiction of the Street Cleaning Commissioner? A No, sir.

Q What was your suggestion in relation to the three boroughs that are under the jurisdiction of the Commissioner?

A That, so far as borough jurisdiction is concerned, it should be abolished.

Q What does that jurisdiction now consist of?

A It consists of maintaining in each of the boroughs a separate deputy in charge of the borough, and a separate appropriation for the work in that borough instead of from a general fund which would be handled under the street cleaning department.

Q Would it be applicable to any one of the three boroughs as necessity arose? A Yes, sir; and for the reason that at various times, for instance, this summer, when extra men were needed at Coney Island, and fewer men are needed up in the upper west side on account of houses closed up, the result is now that whenever you transfer men from one borough to the other there must be a transfer of funds. There is no reason for it. The men must go to the points in the borough that are

threatened, and there they must do their work. The proposition that I have and, succeeded before the Board of Estimate where in preparation for the last budget, which, by the way, we reduced something like a million and a half, my advice was to make a simplified budget, not confine it to boroughs, and I showed the reasons for it, and the Budget Committee granted my requests, and the budget for my successor is now a simplified budget on the lines I have indicated.

Q You think that will work better and more economically than the condition that existed down to the present? A I know it will, sir, because it will put the responsibility where it belongs. I had another suggestion to make, but that would necessarily follow if the borough offices were adopted, that is, that the Street Cleaning Commissioner should have but two deputies instead of four. Two are sufficient to do the work. They should be the first and second deputies, and the Street Cleaning Commissioner should be in position where he could not be removed at whim, but only after charges in open court, such as a policeman is entitled to.

Take 2--SPs-1

Q He ought to have a fixed tenure subject to removal for cause? A Yes, sir, not a whim. It would be of great benefit to the service, because you would get then an intelligent plan of operation; plans that were made could be carried out. The Commissioner would know that he had a reasonable certainty of carrying out plans for improvement, which at present he cannot have.

Q That is, he makes plans now and finds he is not there to carry them out, and the plans are changed? A Probably yes. That is, possibly.

Q Any other suggestion? A Yes, sir, I have a suggestion. That is, it does not affect the Department but perhaps remotely, and that is that the Commissioner of Accounts should be an elected official. He should not be appointed, if you please ---

Q He is not in that Department? A No, sir, but he claims jurisdiction over that Department, and he now is simply an instrument by which a man may be whitewashed or convicted whereas, the present case is sufficient justification for this recommendation. I believe that if he were compelled to go before the people to vote on for his election we would have a different grade of men.

Q That is, you think there might be properly a reorganization of the office of Commissioner of Accounts? A With great

advantage to the public.

Q We will treat that as an aside. A I found from the records that for three years prior to my going into the Department he was practically the administrator of the Department and so informed by the men who were in the office.

Q Have you anything to say on the subject of sweepings and flushing? A Yes, sir, I have.

Q What can you tell us about that? A My suggestion would be this, that so far as sweeping and flushing is concerned the Department should be charged with the duty of cleaning sewer basins, and I will tell you why very briefly, Senator. The temptation to the man who is sweeping to sweep everything into the sewer basin, which is out of sight, is very great, because it shortens his work. He is not compelled to lift it and put it into the cans. If he is lazy he sweeps it into the sewer opening and that sewer opening becomes clogged up and it is necessary for the Commissioner of Street Cleaning to write to the Borough President or his secretary or his chief engineer or the Commissioner of Public Works to call his attention to the fact that the sewer basin at such a point is stopped up, and in a day or two the Borough President or his subordinate sends a truck to clean out that sewer basin. Now, if the Department is required to clean that basin there would be less packing the basin with material that should

be carried away. It would result in economy and in better service and without an appreciable increase in cost to the Department, as the trucks must go through the street anyway.

SENATOR DOWNING: That is applicable to the snow conditions also?

THE WITNESS: Yes, sir., with the exception, Senator, that the snow is not deposited in the basins or in the manholes except when it is in a soft condition, that is, where the flow of water, and perhaps the natural temperature being higher there than in the street, why, it is often thrown into the basin or in the manhole.

SENATOR ROBINSON: You put it in when the snow is frozen?

THE WITNESS: Yes, but it clogs sometimes, if you are not careful.

BY MR. BROWN:

Q They have introduced the motor system in connection with flushing machines, haven't they? A Yes, sir, they have.

Q Has that reduced the help employed? A Yes, sir, and gives better service, not so much the reduction in help, as it does in the increase in service, that is, the betterment of the service. They can cover with a flushing machine so many more yards, and one man to handle the machine and the tank. It requires only a one-man service, and it saves otherwise putting a hoseman on. The hoseman, it takes two or three to handle the hose..

Q What I am getting at is whether there is a saving. You

1. The first part of the report is a general introduction to the project.

2. The second part is a detailed description of the methodology.

3. The third part is a discussion of the results and conclusions.

4. The fourth part is a list of references and a bibliography.

5. The fifth part is a summary of the project and its findings.

6. The sixth part is a list of appendices and a bibliography.

7. The seventh part is a list of figures and a bibliography.

8. The eighth part is a list of tables and a bibliography.

9. The ninth part is a list of references and a bibliography.

10. The tenth part is a list of figures and a bibliography.

11. The eleventh part is a list of tables and a bibliography.

12. The twelfth part is a list of references and a bibliography.

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21. The twenty-first part is a list of references and a bibliography.

22. The twenty-second part is a list of figures and a bibliography.

23. The twenty-third part is a list of tables and a bibliography.

24. The twenty-fourth part is a list of references and a bibliography.

have 75 motors, haven't you? A There are 75 flushing tanks. There are 87 all told, that is, there were 12 that we found were stowed away in Brooklyn that were not in use, and with the 75 new ones that we purchased on the last appropriation and the 12 over there, makes 87 flushing tanks.

Q And you have a hand flushing gang? A That is the hose gang.

Q What I want to get at is whether this machinery has reduced or made possible a reduction in the amount of help employed in this work? A I don't think so, for the reason that it requires the service of mechanics in order to keep the apparatus in order, which was not required when simply the hose flushing was done, so that the saving in man power in one direction is more than made up by the increase in another, but it has increased the service a thousand per cent. The streets can be washed --

Q Not quite a thousand per cent? A I would say ten times, because the streets can be washed and cleaned, which they never could have been before.

Q What methods are employed for determining the proper length of a sweeping or flushing route? Did you have any difficulty with that? A No, sir. We would send some intelligent district superintendent -- at the outset, we timed the men, that is to say, we sent a superintendent with

the truck or with the tanks, and he would watch what space it covered, and the routes were laid out, based upon what the tank could do in an experimental way.

Q In relation to the carting, did you find that the drivers of carts and the drivers and helpers of motor trucks are fully employed, or do part of them finish their work in less than a day?

A No, sir, because, if they have a short route -- you must remember that the service, Senator, must be very elastic. For instance, in the summer time, there are very little ashes to remove, very little ashes, but in the winter time the volume is heavy, and also the garbage and the other waste material is increased.

Q In the removal of snow, do you think it is done on as cheap and as economical a basis as it can be done? A I think so, yes, sir. We have introduced a new system.

Q When was that introduced? A We planned it this summer, the past summer; we planned for the winter work, and that embraced the use of the flushing tanks in mild weather, instead of turning over to a contractor to remove, the proposition being this, that the exhaust from the motor would be turned into the tank itself, which would keep the temperature of the water sufficiently high to be safely handled through the pump, and as follows: We found this also, the blizzards come out of the northwest; the ordinary snowstorm comes out of the northeast;

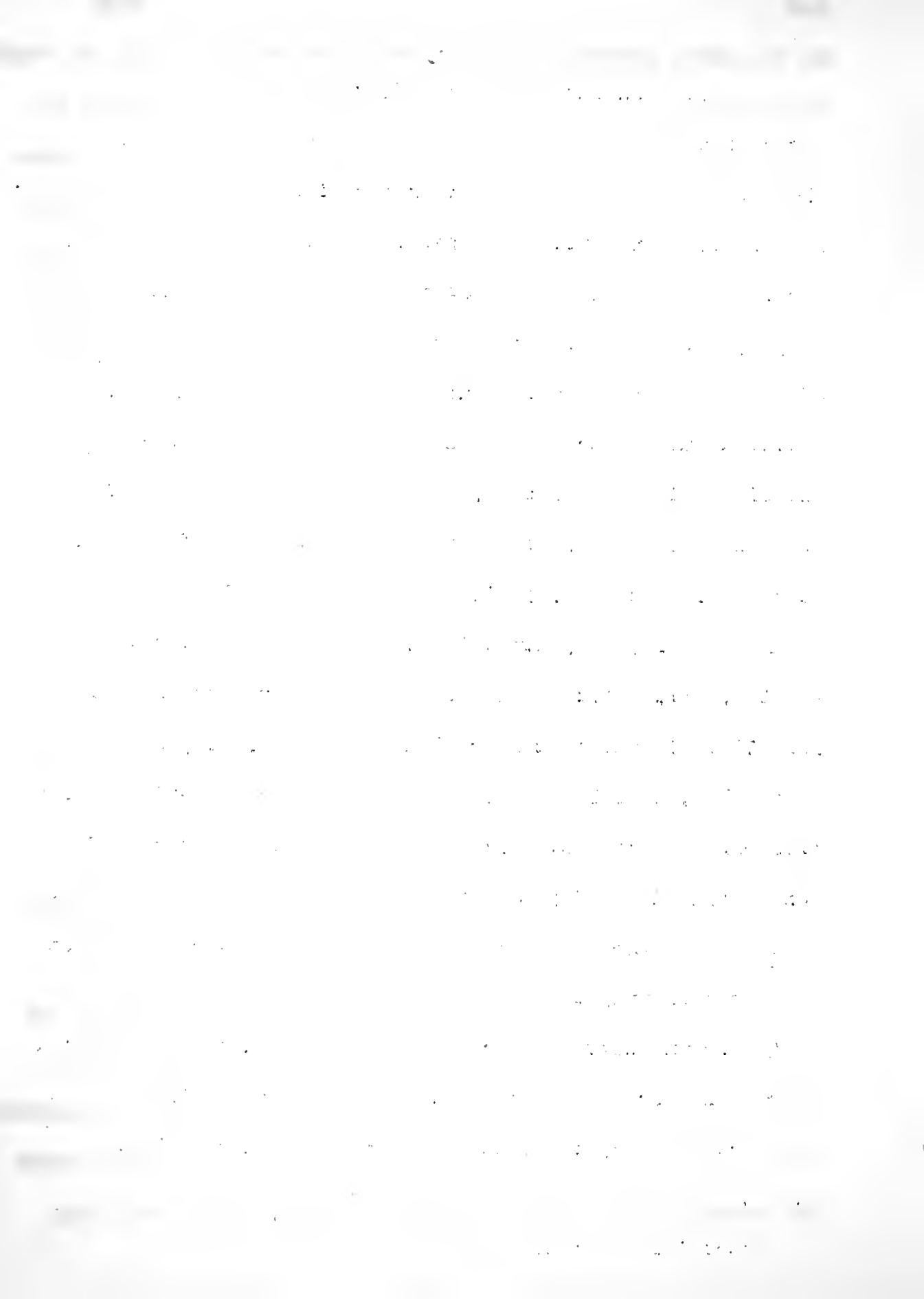
as the storm continues or even after the storm usually the wind works around to the south, and then into the north, where it blows fair and cold. Our proposition was to use the tanks for the flushing during the period of time as the temperature was rising, then cease the operation before it became dangerous, by turning into ice. We expect to save some thousands of dollars that way this winter. I think that plan will be carried out. The Department now cleans the entire lower end of the Island, that is, from 14th street south. Above that the work is done by contractors, who have offered bids after public letting, public advertising and letting.

Q That is, they are doing it now under contract?

A Yes, sir. For the coming winter, at prices something like 10 or 15 per cent less than they were last year.

Q Now, in relation to the renting of scows and tug boats from private persons, can't you tell us about that? I don't think I asked you about that fully before? A Well, sir, the equipment that the city owns is about 35 deck scows and ⁷ ~~3~~ bottom dumpers.

Q Seven what? A Bottom dumpers. A bottom dumper is a scow that is so constructed, that is, divided into wells; that is, the body is divided into wells. Each well is provided with a gate at the bottom of the pocket, and these scows under the Federal rule, when the garbage is deposited at sea, why,



the garbage must be taken to a point 15 miles beyond Scotland Light, and in order that the rule is observed, there is a Federal officer goes on each tug. We found that the bottom dumpers came back oftentimes, returned to their station, with the pockets half filled, because the garbage being light, as the gate was opened, it would not sink into the sea, but instead, when the gate was closed, would bring that material back, and there was no way of freeing it. That is the bottom dumper. We had two side dumpers of what was known as the Eastman type. They were hired at an expense of \$1.50 a day, and had been in use at that price since June 15th, 1920.

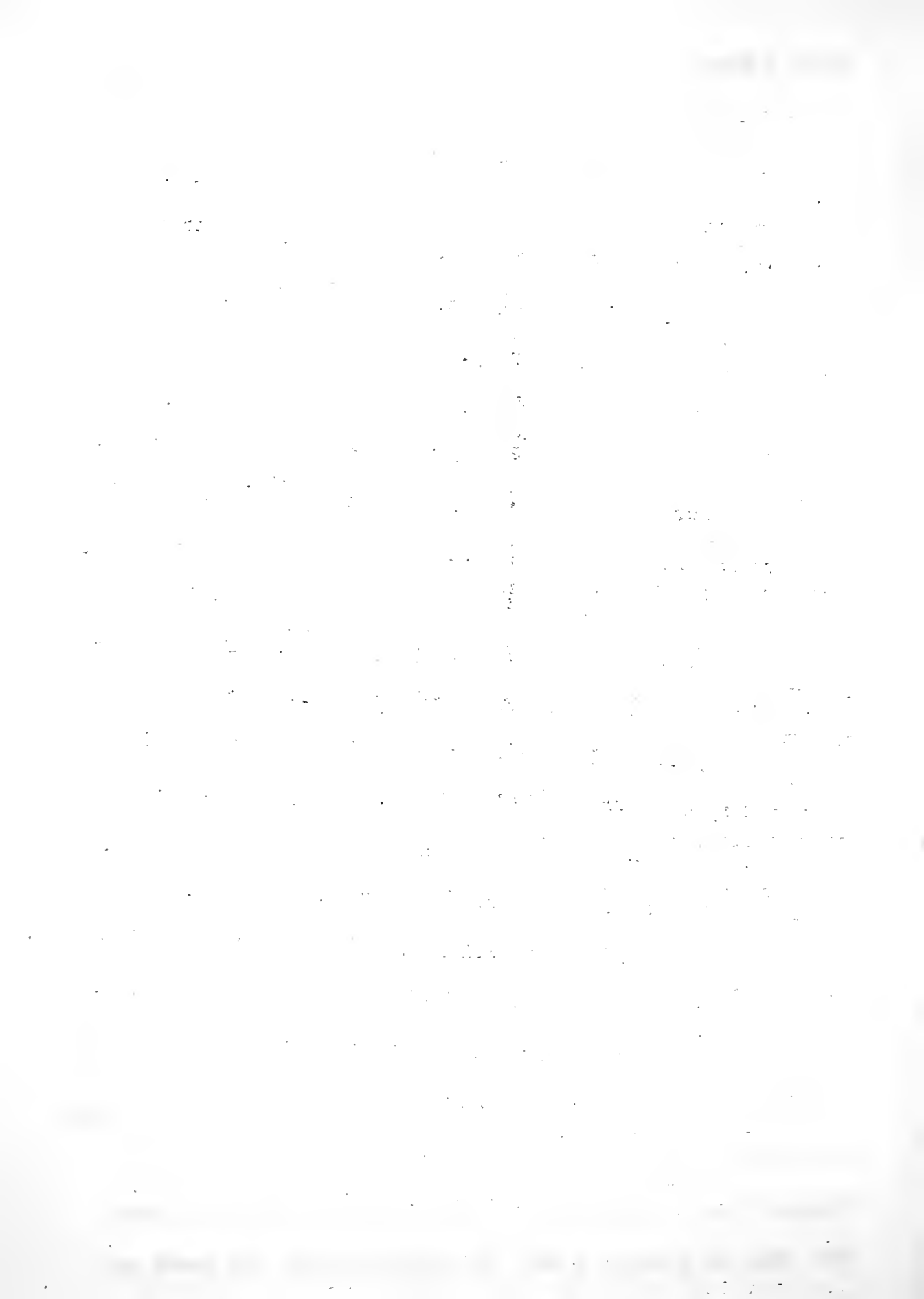
Q When we found that condition --

Q (Interrupting) \$150 a day apiece? A No, sir \$75 apiece. When we found that condition I took the matter up with the Comptroller's office, Deputy Commissioner Priall. He and I took the matter up.

Q How much did that amount to a year? A About \$54,000 for the hiring and rental of these two side dumpers.

Q For the two of them? A Yes, sir, \$27,000 apiece approximately. They were in service constantly.

Q They are in service now? A Yes, sir, they are in service now. They became the property of the City on September 3rd. When I found this condition it seemed to me an outrageous price. I took the matter up and found on inquiry at the Corporation Counsel's office, they advised me that this man Eastman had a patent which was a valid, good patent and he was entitled to all that came to him under his patent. I had the matter up with Priall in the latter part of April and we sent for Eastman and endeavored to get him to reduce the price. He flatly refused to reduce the price but said that he would accept a cancellation of the letting as he had at some place else. As we had but seven dumpers, that would have left us with but seven dumpers, that is, the bottom dumpers that I spoke of to handle all the garbage, nearly 800 tons of garbage a day, we could not let the scows go. So early in June I wrote the Board of Estimate and recited



all the facts. In the meantime I had succeeded in getting Eastman to make a proposition to sell his dumpers for \$50,000 a lump sum, which was less than a year's rental. These side jumpers that I speak of are constructed in different form. They are hollow in the center. There is a hollow triangle in the center of the scow and the load is placed on the outside of these inclined sides and this and the material dumped by the side gates, the side gates opening away from the side of the scow and this would permit the material to go into the sea and absolutely free the scow. Consequently, there was less chocking, less expense in repairs and much better service than we could obtain without the use of these two scows. This matter was referred to the budget engineers and reported favorably and the matter discussed at the meeting of the Board of Estimate, and they finally directed the purchase of the scows for the sum of \$50,000. They also sent for Mr. Eastman in a meeting of Finance and Budget, and the Mayor and the other members of the Board questioned him as to his patent rights and finally, although they could not they stated under the charter provisions purchase patent rights, they passed ~~xxx~~ a very significant resolution and appropriated \$300,000 for the construction of six additional scows of such type and style as in the discretion of the Commissioner will do the work most

economically and effectively, and smilingly they told me I understood what they meant.

Q Did you take any steps under that? A Yes, sir. We were preparing plans and specifications but before issuing them I wanted in writing what the Corporation Counsel had advised me personally as to the validity of the patents and that came into the office, I think, it came in along early in November. The plans and specifications were about ready in order to advertise for bids for these scows. So much for the garbage dumpers. I found --

Q (Interrupting) You regard that as a great improvement and a great economy? A Oh, yes, oh, yes, decided. When you find that for less than a year's rental, Senator, for instance, if you live in a hired house and the landlord said to you, "Pay a year's rental in a lump sum and I will give you title to the property", you would be very apt to take it without complaining that there was a leak in the cellar or the roof. As a business proposition you would grab it and the Board of Estimate I believe acted very wisely in directing the purchase. As far as the other scows are concerned those scows handle only garbage.

Take 5 SPs-1

Now the scow that handles ashes and rubbish and waste, which now goes to Riker's Island, we had but 35 of them. We were compelled to hire daily anywhere from 60 to 80. In January we were paying \$14 a day for scows. We opened the door wide to advertisement, and we are now paying, or were when I left the Department \$7 a day, which means at least \$150,000 a year in the way of saving. We found also that in January they were paying \$300 to tow one of the garbage scows to sea. The price now is \$99. It means a difference to the City of about \$100,000 a year because about forty-odd scows monthly go to sea. The present price I believe is advantageous to the City to continue, for the reason that the cost -- they get more work done by paying \$7 a day for the scow than if they built new scows and maintained them themselves.

Q How do you account for these reductions in prices?

A By opening the door wide and advertising widely.

Q Taking the lowest bidder? A Yes.

Q The lowest responsible bidder? A Yes, having the men know that if their bids are offered, and they are prepared to back them up the lowest man would be awarded the work.

Q You followed that course? A Absolutely.

Q Was there been any change by reason of that open bidding in the personnel of the contractors? A Oh, yes.

Q Largely changed? A Very, yes, sir.

Q Generally? A Yes, sir.

Q Before that it was done by private arrangement? A Before that, sir, it was practically a monopoly.

Q Practically what? A Practically a monopoly.

Q Who did it for Manhattan? A Well, for all the Boroughs.

Q Who did it for all the boroughs? A The firm O'Brien or O'Brien Bros.? scow owners.

Q That is, they did what? A They supplied the scows to the city.

Q Who did the towing? A I will have to look at the record, sir. I could not answer that offhand.

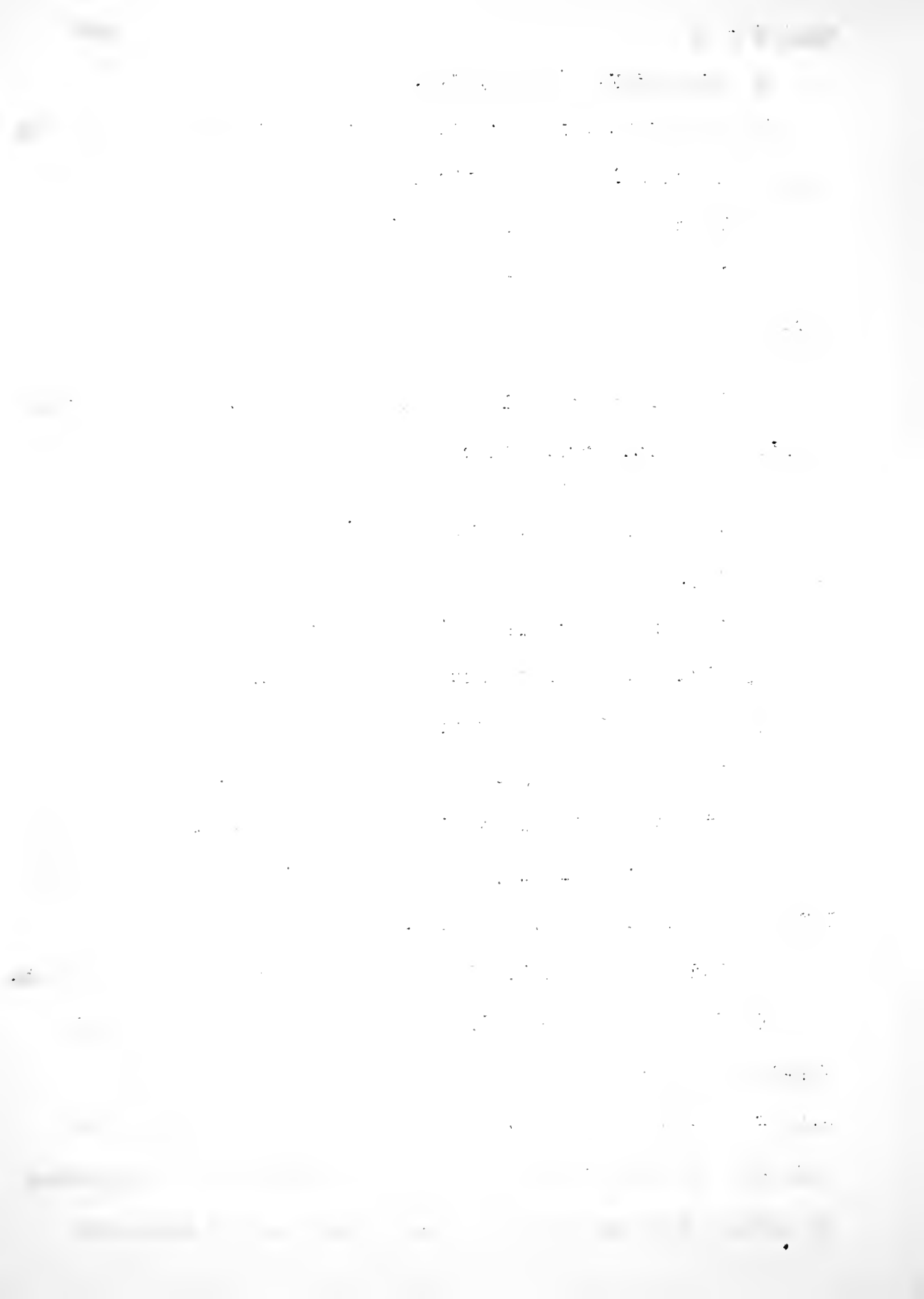
Q Was that a monopoly too? A Yes, sir.

Q That was a monopoly also? A Yes, sir.

Q Didn't O'Brien Bros. do most of it? A I understand they are interested in it, but that I won't be sure of unless I look it up. That I don't know.

Q And the personnel of that has been changed? A Yes, sir.

Q Has anything been done to reduce the cost of final disposition in the Borough of Brooklyn? A Early in the summer I took up with Mr. Donovan, who is the President of the Brooklyn Ash Removal Company, the question of a reduction of price below what was then being paid, and he expressed



his willingness to come over and talk the matter over and see what could be done. You know, Senator, over in Brooklyn there is a little different situation there. We have but one waterfront there, and that is the Wallabout. That is the only point, for instance, we can dispose of our garbage. The contract was made some years ago with the Brooklyn Ash Removal Company, and they have certain delivery stations in the Borough of Brooklyn at which our material is delivered from our trucks at those stations. There they burn part of it, part of the material they put on cars and then take out of the Borough on a little railroad they have built into Corona, Flushing.

Q For filling? A For filling or whatever purpose they want to use it for. So that the entire Borough of Brooklyn, by reason of the absence of waterfront accommodation is really within their jurisdiction.

Q It is a monopoly? A Practically, yes. They have established a plant that cost many thousands of dollars, they have their cars, they have their little locomotives, and they have gone to great expense to establish it, and it would be very difficult for another contractor to go in there without getting an entirely new plant. That applies only to Brooklyn. In Bronx and Manhattan that material is taken to Riker's, and our proposition later on was to take it down and use it for

filling in at Jamaica Bay.

Q You said the disposal of ashes, rubbish and sweepings in Manhattan above 14th street and in the Bronx was done by contract? A No, sir, I say that the disposal for Manhattan and the Bronx is done entirely by the Department and taken to the Department dump on Riker's Island.

Q The whole of it? A Yes, sir, that is for ashes, rubbish and sweepings.

Q Is that the cheapest way? A I think so, yes, sir.

Q Cheaper than by contract? A Yes, sir, I think it is; yes, sir. It is a matter of 14th street you have in mind, the removal of snow.

Q Is there anything more you think of that would be of interest to the Committee or that I would be interested in?

A In regard to the Department?

Q Yes. A I don't know of any more, Senator. You mean in the way of economies or ---

Q You remember I said when you were here before that you would not last sixty days. It seems I put a rather long period on it. A My hat is off to you, sir. You are either a prophet or the son of a prophet.

Q I thought I would revive you for fifteen minutes in view of the very interesting testimony which you presented to the Committee before. A Well, sir, I hope they get on with

the plan I have worked out for the incineration of this material. It would save scow hire and would eventually result in forgetting there was such a thing as a scow except for the disposition of garbage, and eventually we would not need a scow for garbage. Those plants I speak of would be of the most vital interest in the way of economy, and would be of the greatest advantage to the various Associations downtown, because they would have an opportunity to dispose of their trade waste which they do not have at this time

Q You acquit me of having any understanding with you that you should get out of the Department? We didn't have any such understanding? A On the contrary, sir, the impression in your mind was that you would rather I had stayed in the Department. I may have been wrong.

Q Thank you for that. That is all, Commissioner, unless some member of the Committee wants to ask you a question.

THE CHAIRMAN: You spoke before with reference to the housing of this equipment.

SENATOR BROWN: I think I examined him about that. He told me the arrangements he had made for distributing it for use during this winter in the absence of housing which you said was required.

THE WITNESS: Yes, sir. My objection to what has been done in the past was -- the original plan that was worked

out by the Committee was of twenty-two housing stations in the three boroughs.

SENATOR BROWN: We went over that before.

THE WITNESS: And we had about six or seven provided and that took about half of the appropriation for the twenty-two, and I objected to that, and I found also that we did not have proper housing in order to get quickly in action.

SENATOR BROWN: Just to locate the machinery in nearness to the work? You didn't have that?

THE WITNESS: Yes, sir.

SENATOR BROWN: We went over that.

THE WITNESS: There have been two new houses provided down town. I think we have now seven in all, so that they will be handicapped in that way a little bit the coming winter.

THE CHAIRMAN: So that there are insufficient houses?

THE WITNESS: Yes, to roof the material, but it is segregated and not distributed.

THE CHAIRMAN: I will call Mr. Rippon.

F R A N C I S C. R I P P O N recalled as a witness, and testified as follows:

EXAMINATION BY MR. BROWN:

Q Now, Mr. Rippon, you continued your study of the Staten Island piers, and I want you to tell us about the machinery that is to be placed by the City on those piers? A Yes,

sir . Four of these piers on Staten Island are leased to two concerns.

Q All to two? A All to two concerns. That is four of the piers are leased to two concerns, two piers being leased to the Pan-American Terminal & Dock Company, and two to the Union Transport Company.

Q Are there only four piers A No, sir, I am referring to four of the piers at present.

Q Yes. A The Pan-American Company have Piers 12 and 13, and the President of the concern, Mr. Isbransen, testified before the Committee on October 13th.

Q You mean the Sub-Committee? A The Sub-Committee on October 13th, that the cost of these two piers he had approximated at six million dollars, of which six million one million he estimated to be the cost for the special machinery and cargo-handling equipment.

Q On the two piers? A On the two piers. That was to be installed by the City.

Q Under a lease? A Under the lease.

A (continued) The Pan-American Terminal & Dock Corporation is not a shipping concern. It is a stevedoring concern, stevedoring and terminal concern, possibly, would be a better description. And, the city in installing this machinery for this concern, has leased it in the lease on the basis of 7 1/2 per cent on cost.

Q That is, of the entire pier and machinery? A The entire pier and the machinery is leased on the same terms, 7 1/2 per cent on cost.

Q Yes. A (continuing) There is a considerable amount of machinery to be placed on piers 15 and 16, which are leased to the Union Transport Company, another similar stevedoring concern, but the principle of leasing the machinery is the same in all the piers, and I want especially to refer to the machinery installation covering the Pan-American docks 12 and 13. I would like to point out that the depreciation on such machinery as is included in this equipment is ordinarily taken to be between 6 and 7 per cent. The rate of 7 1/2 per cent on cost covers presumably the rate of interest on the investment, taxes and depreciation. I don't see how 7 1/2 per cent can go much further than cover the interest and the taxation. The depreciation of this equipment appears to be a direct loss to the city. In other words, the city is equipping these commercial concerns, and I refer particularly to this one

1914

1. The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

2. The second part of the paper is devoted to a discussion of the various theories of the origin of life.

3. The third part of the paper is devoted to a discussion of the evidence in favor of the various theories.

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7. The seventh part of the paper is devoted to a discussion of the evidence in favor of the various theories. It is shown that the problem is one of the most important and most difficult in the history of science.

8. The eighth part of the paper is devoted to a discussion of the various theories of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

9. The ninth part of the paper is devoted to a discussion of the evidence in favor of the various theories. It is shown that the problem is one of the most important and most difficult in the history of science.

10. The tenth part of the paper is devoted to a discussion of the various theories of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

11. The eleventh part of the paper is devoted to a discussion of the evidence in favor of the various theories. It is shown that the problem is one of the most important and most difficult in the history of science.

12. The twelfth part of the paper is devoted to a discussion of the various theories of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

13. The thirteenth part of the paper is devoted to a discussion of the evidence in favor of the various theories. It is shown that the problem is one of the most important and most difficult in the history of science.

14. The fourteenth part of the paper is devoted to a discussion of the various theories of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

commercial concern, is equipping it with special machinery at a loss which must be presumably met by taxation, so that the Pan American may make a profit. In the form of lease given to the Pan American Company, there are no restrictions whatsoever which give the city any control as to the wharfage rates --

Q (interrupting) The sub-leasing? A There is a usual clause as to sub-leasing, but there is no restrictive clause which affects the wharfage rates which the Pan American may charge, or gives the city any control of the pier in any way other than a control of sub-leasing of the pier. I would like to point out shortly the history of this financing. The Pan American, under date of October the 29th, wrote to the Commissioners of the Sinking Fund, making the suggestion that so far as the cost of this special cargo handling machinery was concerned, that it would be -- I will read from the letter: "We suggest that there be applied to it a different basis of amortization than that applied to the pier and shed. For instance, we would suggest it be amortized upon a basis of 15 years, which would bring an approximate rate of rental of 11 per cent per annum".

It then goes on relative to that offer with a suggestion that: "Replacements of machinery after completion of amortization and additions and extensions of machinery be provided in

like manner and upon the same terms as the original installation." In other words, the company itself at that time contemplated the life of this machinery at about 15 years. Later on, November 19th, 1919, they wrote to the Sinking Fund Commissioners, the letter being considered at the same meeting, November 28th, withdrawing that suggestion and submitting letters from several makers of this cargo handling equipment, in which the makers stated that they had manufactured various cranes that ~~xxxx~~ had had a very long life. In other words, they procured from the makers of this equipment letters which went on to give the opinion of the manufacturers that their equipment had a longer life, and was usually contemplated by authorities on the subject. These two letters, the one making the suggestion of 11 1/2 per cent, and the one asking permission to withdraw that suggestion and citing, as authorities, the makers of crane equipment, were considered at the meeting, and at the meeting the secretary was directed by the committee to put the matter on the calendar with the recommendation that, "The mechanical devices described by Mr. Isbrandsen to the committee be included as part of the construction of the piers, and upon which rental is to be paid at the rate of 7 1/2 per cent of the total cost throughout the term of the lease." On February 17th, 1921, the Commissioners of the Sinking Fund authorized the Secretary to execute an extension of the lease to the Pan American by the inclusion of this equipment which previously had been submitted to the Commissioners of the Sinking Fund, and had shown an estimated cost of \$1,124,000.00.

At the meeting of the sinking fund on July 28th, 1931, the Commissioners of the Sinking Fund adopted a resolution which read as follows: "Resolved, that the resolution adopted by this Board at meeting held May 25th, 1931, reading as follows: 'Resolved, that in the equipment of the piers now in course of construction between Tompkinsville and Clifton, Staten Island, all agreements for the installation of such equipment by the city, shall provide that the rental to be paid for the piers shall be increased by an amount sufficient to amortize the cost of such equipment within the term of ten years, and that in the event of any tenant exercising his right of renewal of the lease of any pier, he shall enjoy the use of such equipment for the renewal term or terms, without other compensation than the cost of maintenance and repair thereof,' be and the same is hereby rescinded, and be it further Resolved, that the Commissioner of Docks be and is hereby authorized to prepare, advertise and let contracts for the equipment of the piers on the basis of the action taken by the Commissioners of the Sinking Fund at meeting held November 28th, 1919, that is, 30 years, at 7 1/2 per cent."

In other words, subsequent to the action of the Sinking Fund on November 28th, 1919, the question of this life of machinery had arisen, but a lease had been executed and authorized to the Pan-American on the basis of 7 1/2 per cent.

Q For 30 years? A For 30 years. In the authorization of corporate stock, covering part of the installation of this equipment, the Board of Estimate and Apportionment, under date of August 2nd, 1921, provided that the principal thereof, that is, the principle of the authorization to mature within a period not exceeding 10 years.

Q That is, that the debt incurred by the city should be paid in ten years? A Should be paid in ten years.

Q Under the statute that the term of payment should not exceed the life of the improvement? A That is the fact and the inference. In this same authorization, the Board of Estimate and Apportionment, under date of August 2nd, provided as follows: "Said appropriation not to become available until a decision has been reached as to the inclusion of the cost of said equipment in the provision determining the annual rental in the leases for said piers." I would like to point out that the leases appeared to be formally made and executed, appears to insure the installation of this equipment on a 7 1/2 per cent basis.

Q Well, now, who is to restore it or renew it? A The lease itself provides that the property as leased shall be turned back to the city in the same shape and condition as when leased.

Q That would require, then, that this property be made good by the lessee? A The term of the lease would require that.

I can give you the clause of the lease. The lease provides, in the surrender clause, that it will peaceably and quietly leave, surrender and yield up unto the possession of the said lessor, without any fraud or delay, the property hereby leased and demised at the end of said term or other sooner termination thereof, and that said premises and structures thereon shall then be well and sufficiently repaired, painted and in good order and condition. I was wrong in saying that they should be turned back in the same condition as turned over.

Q Subject to wear and tear? A Subject to wear and tear, which should be covered.

Q Then the depreciation is not covered except in part?

A Question whether it is covered in part by the 7 1/2 per cent. You might say that the 7 1/2 per cent would possibly cover the depreciation as normally estimated, possibly, that being between 1 1/2 to 1/2 per cent higher than the rate usually and normally estimated for the life of such equipment. Then the city loses, of course, its interest on the investment and taxes.

Q Loses its taxes, which amounted to 2.48 last year?

A And 2.77 this year. By the way, this equipment is not installed yet, and the tax rate will probably be higher, and the cost of the capital outlay.

Q Well, now, do these leases require that all expenses during the leasehold shall be borne by the lessee? A They

require that the lessee at all times during the said term to
and maintain the said premises and every part thereof, and the
structures thereon or to be erected thereon, in good and suffi-
cient repair and condition; in other words, they are supposed
to keep them in ordinary repair.

Q It doesn't provide for depreciation in the broad sense,
either of the dock or of the machinery? A No, sir.

Q Now, it is difficult to say what that depreciation
would be, isn't it? A No, sir.

Q It isn't? A No, sir.

Q What would it be? A It is estimated between 6 and 7
per cent per annum.

Q On the dock? A No, sir.

Q How much on the dock? A On the dock, I wouldn't like
to say without getting special references on it, which I haven't
got now available.

Q There is a percentage of depreciation, or isn't there?

A There is. It would be fairly low, approximately, I should
say, between 1 and 2 per cent; possibly more, but I refer now
especially to the depreciation on the machinery and equipment
of this character.

Q That is, if kept in reasonable repair depreciation of
the dock, in your opinion, would be between 1 and 2 per cent?

A At least. That is the absolute minimum of depreciation.

I will withdraw the 1 per cent, and put a minimum of 2 per cent.

Q A minimum of 2? A Of 2 per cent.

Q That is, the depreciation upon the outfit, the handling outfit, might easily be as large as 50 per cent when the property was returned, although painted and in good order?

A Well, the standard authorities fix the life of that particular class of -p

Q I know, but even if it was renewed from time to time under the terms of the lease, it could be returned with a depreciation of 50 per cent readily, and that would comply with the lease? A I don't see where the lease calls for the renewal of equipment.

Q It doesn't call for the renewal at all? A No; the lease calls for no capital outlay, as I see it, on the part of the lessee.

Q So that the lease is really, when you deduct taxes, for less than 5 per cent, from which you must also deduct the depreciation, is that true? A I don't quite get that.

Q (The stenographer repeats the last question)? A Depreciation of 6 or 7 per cent.

Q That is, on the outfit, on the handling outfit?

A That is on the handling outfit.

Q And on the dock of 2 per cent? A I only instance 2 per

cent as the absolute minimum. It would go considerably higher according to the class of dock.

Q So that as to the dock itself, when you deduct the 2 per cent depreciation, it would leave 3 per cent net to the city, is that right? A Considering taxation?

Q What say? A Considering taxation?

Q After deducting taxes? A After deducting taxes, and depreciation, it would leave --

Q On the dock? A On the dock, about 2 1/2 and 3 per cent.

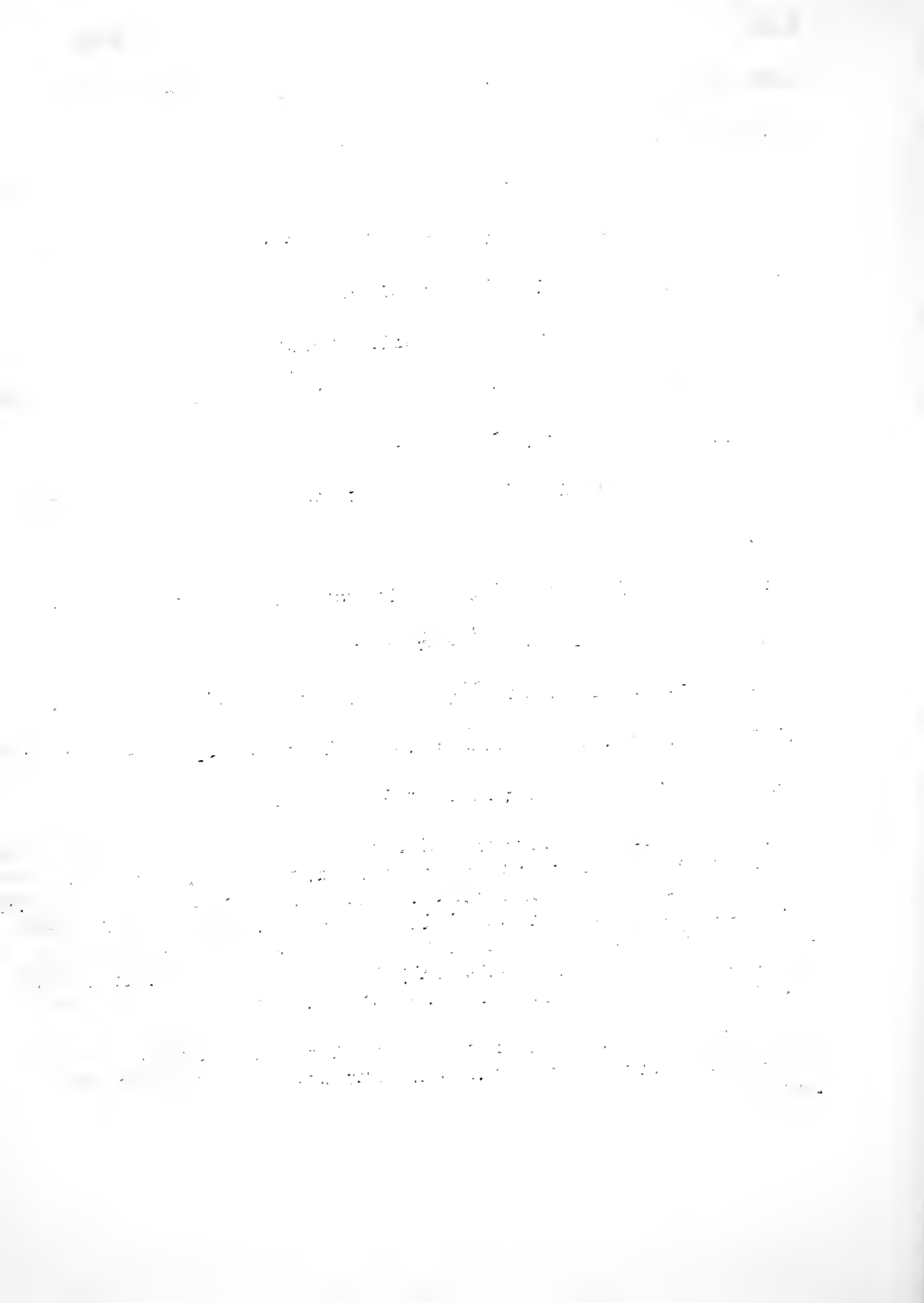
Q How much? A Oh, no, it would leave more than that.

Q 3 per cent? A 3 per cent.

Q And on the machinery or unloading outfit, as to that million dollars, the rental paid would scarcely equal depreciation? A Would approximately equal --

Q And make no provision for taxes? A Make no provision for taxes or interest on the capital investment, which the city has provided. In other words, sir, were a commercial concern, were this concern to install its own machinery, it would cost provided they could get as low an interest rate as the city, it would cost them approximately 15 per cent a year including depreciation. The city is providing it for 7 1/2 per cent.

Q You are speaking now of the unloading outfit? A I am speaking now of the unloading outfit, the equipment and machinery.



Take 8-EMs-1

D Q Does that complete what you had to say upon that subject? A Yes, sir.

SENATOR BROWN: When you complete your other studies I will call you again. Does anybody want to ask him anything?

(No questions asked by members of the Committee)

C L A R E N C E K I N G called as a witness, and being first duly sworn by Chairman Meyer on this 7th day of December, 1921, testifies as follows:

EXAMINATION BY SENATOR BROWN:

Q Mr. King, you have made a study of the mandatory legislation on the City and the Boroughs? A I have.

Q I want you to state to us what the result of your investigation is giving us as much detail as you can? A The study consisted in examining the statutes to see just what salaries the City in the budget were compelled by particular statutory provision, with an effort to find out just what percentage of the budget is mandatory in the sense that the budget-makers, the Board of Estimate and the Board of Aldermen have no discretion to change the particular amounts or the total amount. The study was devoted particularly to County positions, though it covered the whole area.

Q This had been made up and presented to the Committee in 1915 and 1916? A Yes, sir.

Q So that you had that to start with? A We had that as a superstructure at the time of the Constitutional Convention and at the time of your Committee. Then, beginning with 1915 where we left off we examined the statute from then to date. We found, with very few minor exceptions which I can mention if you wish, no mandatory legislation affecting what we have called City positions as distinguished from County positions.

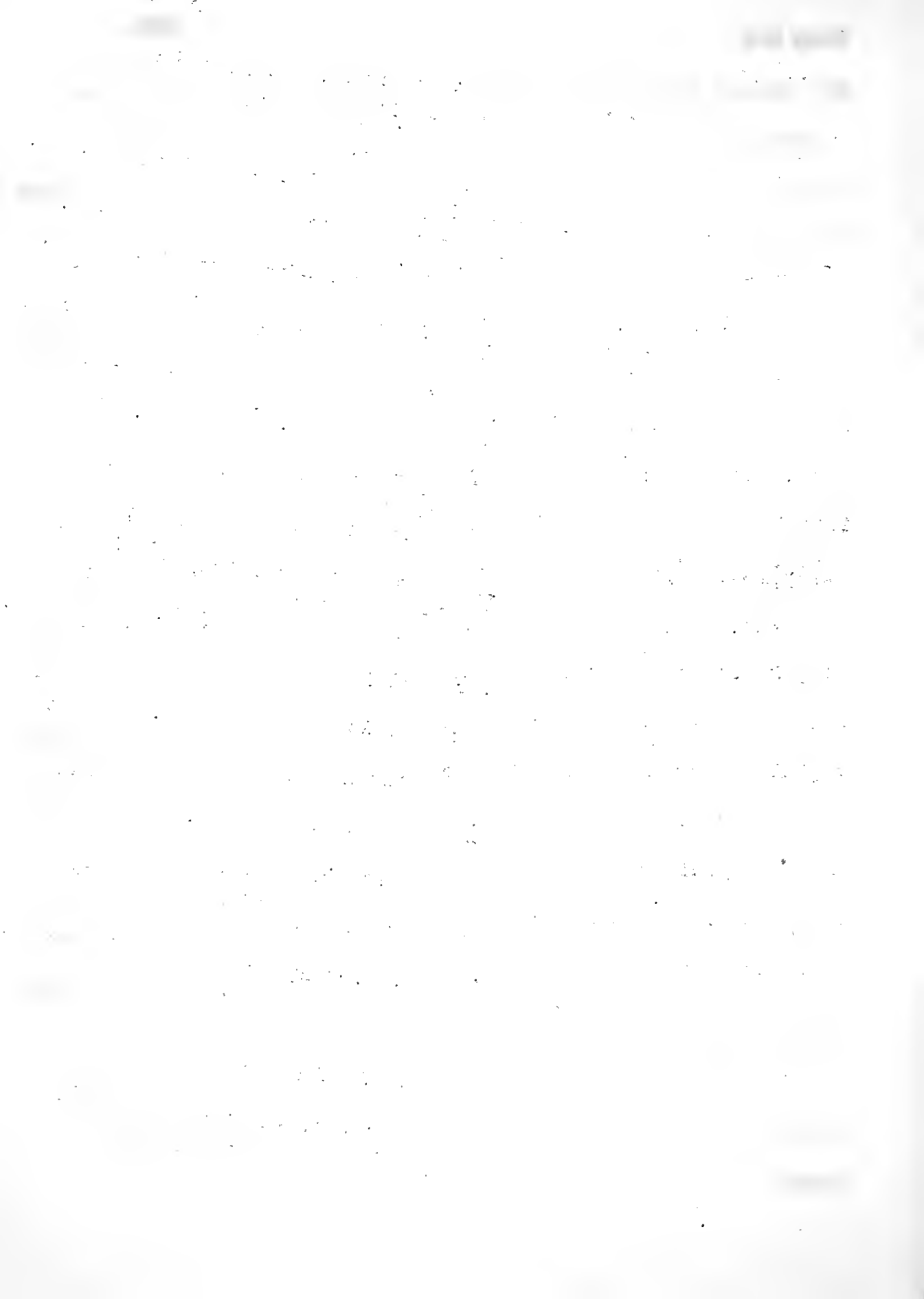
Q That is, City at large? A City at large, or Borough, as distinguished from County, but the statute books from 1915 to date are full as I can show from the annotated budget, which we have here with special laws passed each year just as they were full special legislation affecting County officers each previous year. I don't mean that to be an invidious comparison between City offices and County offices because, if you would like to have me I think I can explain a very obvious reason which probably you are all familiar with why there is more special legislation in the County field. Perhaps, first, you would like a summary of what we found. There are, as you know, forty-one separate County departments with twenty-seven headed by separate elected officials. The total cost of those forty-one departments in the 1931 budget is \$10,029,000. Of that amount, by computing those items that were controlled by particular statutes, \$3,470,000 or 64.6 per cent is absolutely mandatory in the sense that the budget-makers can

not change the salary because it is mentioned in the law or because the law says that someone else besides the budget-makers may fix the salary. That may be compared with the total City budget in which we found 35.9 per cent to be mandatory.

Q Twenty-five million? A Twenty-five per cent.

Q Twenty-five per cent? A Yes, and sixty-four per cent in the County exclusively. Now, the discretionary portion of the County portion we found to be only 25.5 per cent. There is in there another small item, 9 per cent, which amounts to \$1,004,000, which is mandatory on the budget-makers in this sense, that any reasonable expense necessarily incurred must be paid irrespective of the amount that was put in the budget. You will recall, things included in that such as as the expedition expenses the District Attorney puts in. ~~Expenditures~~ Whatever expenses there were, the legal opinions of the courts and the opinions of the Law Department have held would have to be paid. So, 25.5 per cent is all that is discretionary. Now, there are ten of the County departments where the entire budget is absolutely mandatory. Perhaps you would care to have me list those.

Q Yes, I would like it. A Those ten are in New York County, the Commissioner of Records, and the Surrogate's Court.



Take 8-4

Q .Which is, of course, a separate office, and the Commissioner of Jurors. All of their budget is mandatory and the Board of Estimate is simply doing a mechanical act in writing in what the laws provides. In the Bronx there is the Commissioner of Jurors and the Public Administrator. In Kings County there is the Commissioner of Records and the Surrogate's Court. In Queens County there is the Public Administrator, the District Attorney and the Commissioner of Jurors. We also made up a list of other County offices where 75 per cent was mandatory. There are ten of those if you care to have me give those.

Q Yes. A The Commissioner of Records of the Bronx, County Clerk's office, Kings, District Attorney, Kings, Registrar, Kings, Sheriff Kings, County Court, Kings, Commissioner of Jurors, Richmond, County Court Queens, District Attorney Richmond, Court of Adjustments in New York County and Surrogate's Court in New York County. There are three other offices with half of their salary roll is mandatory.

Q Now, I would like to ask you. Go on. I will let you finish. A The District Attorney of New York, the Sheriff of New York County and the County Court of Bronx. All the rest of the County offices of these forty-one departments -- all the rest I have not mentioned a smaller amount than fifty per cent of their salary really is mandatory on the Board of Estimate.

Q Have you a list of all those and of the others in each department? A I have. We published in 1915 a printed report showing those -- when we came to revise that to date at that time we found it to be simpler and quicker and less expensive to take the 1921 budget and annotate it in ink, the particular laws that compelled particular salaries and underscore everything that was mandatory so that this budget is annotated in that way.

Q Now, what I want in relation to it is this, and I will tell you why I want it, first, Officers like judges, Commissioners of Jurors and general officers whose functions are closely and intimately related with the exercise of justice, come under a different rule from officers who perform purely local functions and from officers who are subordinates and clerks in the offices relating to the administration of justice, who have only clerical or inferior duties to perform. And if

you have not made up a statement that indicates the mandatory legislation on these two classes I wish you would do it. A I can do it very readily, Senator. If I get your point it would be to turn through the items we have listed ---

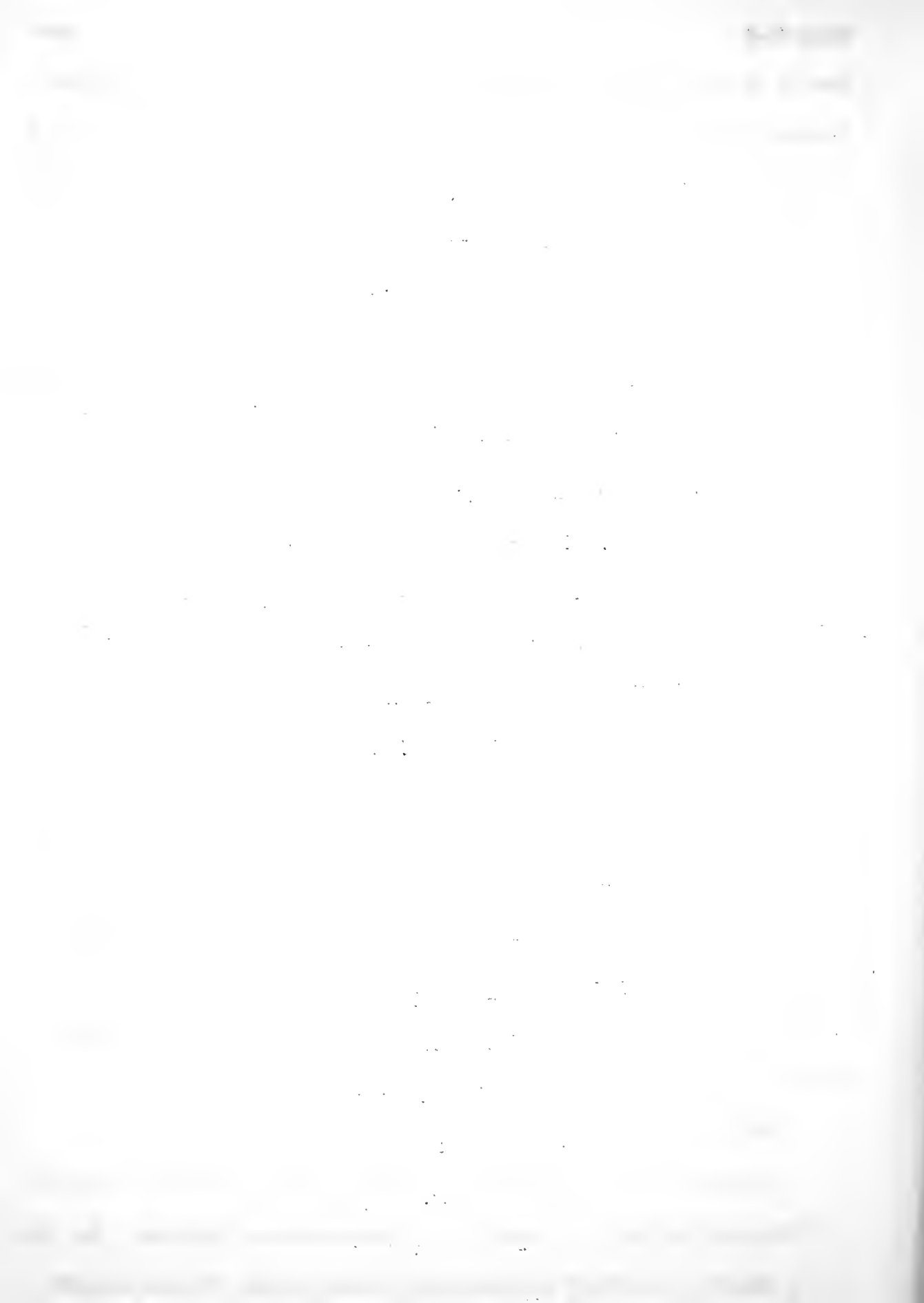
Q For instance, you take the judge of a court? A Yes, take those out.

Q Even if it is a judge of an inferior court. It relates to the administration of justice. But you take a clerk of such a court, and he can readily be provided for in the City of New York, as he is in the up-State counties by the Board of Supervisors arranging for his compensation. So in the office of the Commissioner of Juries the Commissioner of Jurors and perhaps a deputy might come within the rule that he was connected intimately with the Administration of Justice, which was a State function in the City, and that it should be provided for without any reference to local authority? A His one particular salary.

Q On the other hand if he had to have a dozen clerks it would not be a violation of the principle, but in harmony with the general practice of the State that the salaries of those clerks was fixed by the local authority.

SENATOR DOWNING: Or the attendants.

SENATOR BROWN: Or the attendants, yes. Anything below a responsible duty in relation to discharging justice. So that in a sense, mandatory legislation cannot apply to the higher



officers of justice anywhere in the State. It is not regarded as mandatory that the Legislature fixes the salary of the County Judge of Jefferson County. Somebody on the Board of Supervisors might get sick of him and want to reduce it to nothing. The same thing in the City of New York. On the other hand, the employes in the courts have their salaries ---

SENATOR DOWNING: I understand your point, Senator.

SENATOR BROWN: Yes, and I want to point that out clearly that I would like very much to have the witness prepare a statement embodying these distinctions, and giving us the list. I know, on the other hand, very well that if an attendant, or several attendants of a court in your district want to have their salaries fixed, the ^{natural} ~~xxx~~ disposition on your part is to take care of them. I don't say you ever did. But that is a natural disposition.

SENATOR DOWNING: I haven't done my duty.

SENATOR BROWN: And it operates to impose upon the City a charge which the City should properly be charged with, and we want to get that before us. Now, have you the publication -- is this it here -- the mandatory resolution which was prepared and submitted to my Committee?

THE WITNESS: Yes, sir.

SENATOR BROWN: Will you save that, and I would like to refer to that also, and will ask that it be marked in evidence.



(Same received and marked Exhibit 375 of this date,
December 7, 1931.)

THE WITNESS: There is one point in connection with what you were saying, Senator, and that is the proposed constitutional amendment you had introduced in 1916.

SENATOR BROWN: 1917, I think.

THE WITNESS: To provide for a veto on bills affecting County salaries within the City of New York, providing that the Mayor should have veto over those.

SENATOR BROWN: I think I did.

THE WITNESS: Also a bill which was a blanket repealer of all of those mandatory statutes.

SENATOR BROWN: Was there such a bill?

THE WITNESS: You prepared such a bill, which was introduced and amended several times, providing for the exceptions you speak of.

SENATOR BROWN: The very exceptions I speak of today? Have you a copy of that bill?

THE WITNESS: I have it in the office but haven't it here

SENATOR: BROWN: Will you run that off so I can have it? It may be difficult, it is so old, and it will serve as a basis for consideration by the Committee.

THE WITNESS: That provided for a referendum on the question.

SENATOR BROWN: I see. There were two bills for referendum. One was on education and the other on other salaries.

SENATOR DOWNING: May I ask if Counsel has changed his attitude since that time?

SENATOR BROWN: You know I have always entertained an idea that a man should be progressive.

SENATOR DOWNING: Yes, that is wonderful to learn from you.

SENATOR BROWN: And I have progressed considerably, yes? And my ideas and reflections have been modified by experience.

SENATOR DOWNING: Oh, and by contact with me.

SENATOR BROWN: You have been a valuable addition and auxiliary.

SENATOR DOWNING: Now we can proceed. We are on the same common ground.

SENATOR BROWN: At the same time I have sometimes learned from you not what to do --

SENATOR DOWNING: We are both progressive to a state I hope of ultimate perfection.

SENATOR BROWN: I am pleased to hear you make such a remark as that. You seem to be in harmony with my ideas.

SENATOR DOWNING: My mental state has always been in harmony.

SENATOR BROWN: Yes, I am pleased. On this point.



SENATOR DOWDING: On most all points. We have sometimes disagreed on minor matters, but in that higher state of higher mentality and better thoughts you and I have always agreed.

SENATOR BROWN: Well, now, will you prepare that?

THE WIT ESS: Yes.

SENATOR BROWN: I think that is all I will present to the Committee today.

THE CHAIRMAN: Well we adjourn then until Wednesday.

SENATOR BROWN: Yes.

(Whereupon, at 4:10 o'clock the Committee adjourned to Wednesday, December 14th, 1921, 2:30 o'clock P.M.)

Next Exhibit 376

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